

Mechanical Steno - Computer-Aided Transcript

1 APPEARANCES:

2
3 Stephen E. Frank

4 Ian J. Stearns

5 Leslie Wright

6 Kristen Kearney

7 United States Attorney's Office

8 1 Courthouse Way

9 Suite 9200

10 Boston, MA 02210

11 617-748-3208

12 stephen.frank@usdoj.gov

13 for the Plaintiff.

14
15
16 Brian T. Kelly

17 Joshua C. Sharp

18 Lauren Maynard

19 Nixon Peabody LLP

20 100 Summer Street

21 Boston, MA 02110

22 617-345-1000

23 bkelly@nixonpeabody.com

24 for Gamal Abdelaziz.

25

1 APPEARANCES:

2
3 Robert L. Sheketoff

4 One McKinley Square

5 Boston, MA 02109

6 617-367-3449

7 sheketoffr@aol.com

8 for Gamal Abdelaziz.

9
10
11 Michael Kendall

12 Lauren M. Papenhausen

13 White & Case, LLP

14 75 State Street

15 Boston, MA 02109

16 617-939-9310

17 michael.kendall@whitecase.com

18 for John Wilson.
19
20
21
22
23
24
25

1 APPEARANCES:

2
3 Andrew E. Tomback

4 McLaughlin & Stern, LLP

5 260 Madison Avenue

6 New York, NY 10016

7 917-301-1285

8 atomback@mclaughlinstern.com

9 for John Wilson.

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P R O C E E D I N G S

THE CLERK: You may be seated. Court is now in session.

THE COURT: Good morning, counsel.

Before we call the jury and commence closing arguments, I need to make some rulings. I will first address the two pending matters, the objection to the proposed verdict form and the defendants' motion to exclude argument regarding control of funds, docket 2353.

I will then briefly go back over some of the matters that were discussed yesterday at the charge conference. Then we will commence oral argument.

I'm afraid I'm going to have to have that screen moved so I can see everybody in the courtroom, including all counsel. It's going to have to be moved about 5 feet back. Keep going. Right there. Thank you.

MR. FRANK: Do you want it there during closings as well?

THE COURT: If not, it's going to have to be brought into such a position that I can see everybody in the courtroom.

First of all, with respect to the defendants' objection to the proposed verdict form, docket 2363, that objection is overruled because the Court finds that its proposed verdict form is not an offending verdict form that would be restricted by any case law. It's not a special

1 verdict form.

2 Second, the defendants' motion to exclude argument
3 regarding control of funds, the Court sees this as an argument
4 about sufficiency of evidence and concludes that the government
5 has offered evidence sufficient to argue about it in its
6 closing, but it cautions counsel not to go beyond what the
7 evidence shows.

8 Third, with respect to matters that were discussed
9 yesterday at the charge conference, defendants requested that
09:23 10 the Court instruct on venue. The Court will give an
11 instruction on venue, which will embody the substance of both
12 requests of the government and the defendants.

13 Attorney Sheketoff requested the Court further clarify
14 that willful blindness can only be used to prove knowledge and
15 not intent. Because his concerns were specific to the context
16 of the government's proposed instruction, which differs from
17 our final charge, we will address the substance of defendants'
18 request in our version.

19 With respect to comments made by counsel during
09:24 20 openings and at other times during trial, I will instruct the
21 jury as follows: What counsel say in their opening statements,
22 closing arguments, objections, and at other times during the
23 trial is intended to help you interpret the evidence, but it is
24 not evidence and sometimes counsel are mistaken.

25 Third, Attorney Kendall requested an instruction that

1 an official act is required for federal programs bribery citing
2 *U.S. vs. Martinez*, a First Circuit case this year. The
3 government has filed a response arguing that the language in
4 *Martinez* is dicta and that federal programs bribery does not
5 require an official act. This matter is retained under
6 advisement and the Court will charge accordingly after it makes
7 its conclusion.

8 Next, Attorney Kendall requested an instruction with
9 respect to materiality, in particular that a misrepresentation
09:25 10 or concealment in the context of honest services fraud had to
11 be of a material fact, not merely relate to a material fact.
12 Our charge adopts Attorney Kendall's request.

13 Attorney Kendall objected to use of the term
14 "omission". Consistent with the pattern instructions,
15 "omission" has now been replaced with the word "concealment".

16 The instruction concerning expert witnesses has been
17 deleted.

18 The Court will neither instruct on nor use the term
19 "corrupt insider" in its charge. The Court will instruct the
09:25 20 jury on the crimes charged and does not believe it is necessary
21 to further explain to the jury the concept of corrupt insider.

22 The Court will not provide a condonation instruction
23 because, under the standard expressed in *U.S. vs. Joslin*, the
24 Court finds there has not been sufficient evidence to warrant
25 it. The Court will give the rough substance of the defendants'

1 proposed legitimate giving instruction.

2 Finally, the Court will not instruct on pure legal
3 impossibility because such an instruction is not warranted in
4 light of the charges and the evidence in this case.

5 Anything that needs to come to my attention before we
6 call the jury for oral argument?

7 Mr. Kelly.

8 MR. KELLY: Your Honor, we can discuss it at the break
9 or later, but I do want to drill down a bit on the instruction
09:26 10 about mistaken. It was clearly the government who was mistaken
11 when they objected in my opening about the USC admissions
12 people. I don't want it being suggested that I was mistaken.
13 They were mistaken. They conceded their mistake at sidebar.
14 That's why we asked for the clarification, that it was the
15 government's mistake.

16 THE COURT: Did you submit a specific instruction?

17 MR. KELLY: Yes, we did, your Honor. I'll get the
18 docket number momentarily.

19 THE COURT: I'll look at it. All right. Anything
09:27 20 else?

21 MR. KELLY: No, your Honor.

22 THE COURT: Call the jury.

23 (Jury enters.)

24 THE CLERK: Thank you. You may be seated. Court so
25 now in session.

1 THE COURT: Good morning, jurors. Welcome back. I
2 hope you're ready to go to work today. As I told you before,
3 what we're going to do is give closing arguments today. They
4 are going to be extensive.

5 The order is that the government makes its closing
6 first. Then you'll hear from counsel for both of the
7 defendants, after which the government has a short time for
8 rebuttal.

9 With that, I will invite Mr. Frank to make the closing
09:29 10 for the government.

11 MR. FRANK: Thank you, your Honor.

12 May I proceed, your Honor?

13 THE COURT: You may proceed.

14 MR. FRANK: Good morning.

15 "I'll make them a sailor or something. Because of
16 where you live".

17 "I'll make them a sailor or something. Because of
18 where you live".

19 That is what Rick Singer told John Wilson when they
09:30 20 were discussing the side-door scheme for Wilson's daughters.
21 And how did the defendant respond? He laughed. And then he
22 asked if he could get a two for one special.

23 That exchange between John Wilson and Rick Singer was
24 intercepted on a court authorized wiretap on September 15,
25 2018, one week before the FBI approached Singer, at a time when

1 neither the defendant nor Singer knew that the FBI was
2 listening, caught red-handed, scheming to get Wilson's two
3 daughters into some of the finest universities in the country
4 as recruited athletes in exchange for money.

5 But you know that they were not athletes. There was
6 no chance they were going to be legitimately recruited as
7 college athletes, and the defendant knew that as well. In the
8 same call he asked, what sport would be best for them or is it
9 not going to even matter.

09:31 10 Here's what else you know: This was not John Wilson's
11 first time doing a dirty deal to get his kids into college
12 through lies and bribery, the same deal that Gamal Abdelaziz
13 did to get his daughter into USC as a recruited basketball
14 player even though she didn't even make her high school's
15 varsity team and she hadn't played basketball for the last
16 two years of high school.

17 You heard him on tape as well. How did Mr. Aziz
18 respond when Rick Singer told him that Donna Heinel wanted to
19 use that same fake athletic profile for anybody who isn't a
09:32 20 real basketball player? "I love it". Just like Mr. Wilson, he
21 thought it was funny.

22 At the beginning of this case, the government told you
23 the evidence would prove beyond a reasonable doubt that these
24 defendants conspired to get their children into college through
25 fraud and bribery to gain admission as recruited athletes based

1 on falsified credentials, to induce corrupt Athletic Department
2 insiders to fool their own colleagues in the Admissions
3 Department in exchange for money and to cover it up and to
4 cheat the IRS with a paper trail of bogus donation letters and
5 phony consulting invoices.

6 You now know that the evidence has shown exactly that,
7 and that evidence has given you remarkable insight into the
8 minds of these two defendants. That's no accident. The FBI
9 investigation that you've heard about over these last three and
09:33 10 a half weeks was designed to do exactly that, to make sure that
11 the evidence of the defendants' knowledge and intent was
12 captured on tape so that you, the jury, would be able to hear
13 these defendants in their own words scheming to trade money for
14 recruitment spots based on falsified credentials and lying to
15 cover it up and to make sure that they couldn't later hide
16 behind those phony documents that they used as a cover story
17 for their crime to make their payments look like legitimate
18 charitable contributions or even business expenses.

19 For their actions, the defendants are charged in two
09:34 20 counts, with conspiracy to commit mail fraud and wire fraud and
21 honest services mail fraud and wire fraud, and with conspiracy
22 to commit federal programs bribery.

23 Mr. Wilson is charged with three additional counts for
24 wire fraud and honest services wire fraud and two additional
25 counts of federal programs bribery in connection with payments

1 that he made and phone calls that he had to get his daughters
2 into Stanford and Harvard as recruited athletes, and he's
3 charged with one count of filing a false tax return for lying
4 on his taxes about the payments he made to get his son Johnny
5 admitted to USC as a water polo recruit.

6 Now, Judge Gorton is going to instruct you tomorrow on
7 the elements of those charges. I'm now going to take you
8 through the evidence that establishes each of those elements.

9 First, I'm going to discuss the evidence of how the
09:35 10 scheme worked. Next, I'm going to discuss these specific
11 defendants, the evidence of their knowledge and their intent to
12 join in that larger conspiracy. Finally, I'm going to address
13 a few big picture points and legal issues.

14 First, you know from the evidence that there was a
15 scheme to defraud to get the defendants' children admitted to
16 college as recruited athletes based on falsified credentials in
17 exchange for money. The scheme involved fabricating or
18 embellishing the student's athletic qualifications and making
19 payments that benefitted corrupt athletic department insiders
09:36 20 who misled their own colleagues in the admissions department
21 and secretly traded those recruitment spots for money.

22 The scheme was organized by Rick Singer. He called it
23 his "side door", but it was a sweeping conspiracy that involved
24 dozens of others: Corrupt coaches and athletic department
25 insiders, like Jovan Vavic and Donna Heinel at USC, Rudy

1 Meredith at Yale, John Vandemoer at Stanford, Jorge Salcedo at
2 UCLA, and Gordie Ernst at Georgetown; Singer's employees and
3 associates like Mikaela Sanford and Laura Janke; and parents,
4 including these defendants, Gamal Abdelaziz and John Wilson,
5 and dozens of others who would stop at nothing to get their
6 children admitted to the college of their choice.

7 You know that the scheme involved creating athletic
8 profiles that were either completely invented, like Sabrina
9 Aziz's, or falsified in other ways with fake honors and
09:37 10 fabricated times, like Johnny Wilson's.

11 Bruce Isackson, you'll remember him, he was the
12 government's first witness, he told you that he and his wife
13 e-mailed Singer an action photo of their daughter or, if they
14 didn't have one of those, a headshot, with the understanding
15 that Singer or one of his associates would use that photo to
16 create a falsified athletic profile. For Lauren Isackson, it
17 was a soccer profile because she actually played a little bit
18 of soccer in high school. For Audrey Isackson, it was a crew
19 profile, even though she had never rode in her life.

09:38 20 You know that corrupt athletic department insiders
21 then used those fake profiles to get those students admitted as
22 recruited walk-on athletes.

23 At USC, Donna Heinel was the Athletic Department
24 liaison who presented the profiles to the Subcommittee on
25 Athletic Admissions. That is a unit of the Admissions

1 Department comprised of Admissions Officers. It's also called
2 SUBCO. And the Admissions Department, the SUBCO, relied on
3 those profiles and believed that those students had been
4 selected by USC's coaches based on their athletic
5 qualifications to be recruited on to USC's Division 1 teams.
6 Those are some of the finest, most competitive and elite
7 athletes, collegiate athletic teams in the country. They have
8 actual Olympians among their ranks.

9 Here's how Singer described this part of the scheme to
09:39 10 Agustin Huneeus. He's one of the parents who participated in
11 the conspiracy. This call was captured on the court authorized
12 wiretap before agents approached Singer when neither of them
13 knew that anybody was listening.

14 (Audio recording played.)

15 MR. FRANK: Now, you know that none of those students
16 were recruitable athletes at the USC level. For example,
17 remember when Huneeus told Singer his daughter couldn't play
18 water polo.

19 (Audio recording played.)

09:40 20 MR. FRANK: But that's not what Donna Heinel sold the
21 SUBCO. Under "Assets to Our Women's Team", she wrote "Agustina
22 is a high caliber walk on in a much needed goalie position".
23 That is the fraud, lies about student's athletic qualifications
24 to have them admitted as recruited athletes.

25 And you know that after the Admissions Committee

1 signed off, students typically received letters letting them
2 know that they had been approved for admission as recruited
3 athletes, sometimes before they even applied.

4 And that is when the money came due. Sometimes
5 parents made payments directly to athletic department funds
6 that were controlled or overseen by the corrupt insider, like
7 the Women's Athletic Board that Heinel oversaw or the Water
8 Polo Fund that Vavic oversaw as the coach of the water polo
9 team.

09:41 10 Here's how Singer explained that part of the scheme to
11 Agustin Huneeus.

12 (Audio recording played.)

13 MR. FRANK: "It essentially goes right to her".

14 That's how Rick Singer described the scheme before he knew that
15 the FBI was listening. Other times parents sent their money to
16 Singer's purported charity, The Key Worldwide Foundation, or
17 KWF, for him, in turn, to distribute to the insiders. That's
18 what the Isackson's did. Sometimes parents paid all at once
19 after their kids were admitted. Other times they paid part of
09:42 20 the money when they received the admission approval letter and
21 the rest when the parent received final confirmation of
22 admission.

23 Here's how Singer described that to Huneeus.

24 (Audio recording played.)

25 MR. FRANK: And that is the bribery. They don't use

1 the word "bribe". They don't use the word "fake profile"
2 because that's not how criminals talk. What they do talk about
3 is sending money as a donation to a USC fund in exchange for
4 having an insider push an unqualified applicant past the
5 Admissions Department as a recruited athlete.

6 That is also called honest services fraud, because in
7 exchange for that so-called donation, the insider is lying to
8 their own colleagues in the Admissions Department. They are
9 not providing their employer with their honest services.

09:44 10 Now, you know Singer did not always tell parents the
11 whole truth. For example, with Sabrina Aziz, Singer didn't
12 actually send the money to USC. Instead, a few months after
13 Aziz paid him, he began paying Heinel \$20,000 a month
14 personally. With Johnny Wilson, Singer sent part of the money
15 to the water polo team and he kept the rest for himself.

16 There's no honor among thieves, but I expect that
17 Judge Gorton will instruct you that, in a conspiracy, that does
18 not matter. Conspirators don't need to know all of the
19 details. They just need to know the essential features of the
09:45 20 conspiracy. And in this conspiracy, there were two essential
21 features.

22 The first was fabricated athletic qualifications. The
23 second was payments, wherever those payments went, to induce
24 corrupt athletic department insiders, like Vavic and like
25 Heinel, to lie to their own colleagues in admissions by

1 pretending to recruit students based on those fabricated
2 athletic credentials.

3 Each of those things independently is a crime. The
4 defendants are guilty if you find that they participated in
5 even one aspect of the scheme: Either the fraud or the
6 bribery. You know they participated in both.

7 The government was able to intercept Singer's call
8 with Agustin Huneeus because it happened to occur while the FBI
9 was monitoring Singer's phone with a court authorized wiretap
09:46 10 in the summer of 2018. Agents did not intercept Mr. Aziz on
11 the wiretap because his daughter Sabrina had already been
12 admitted to USC before the FBI even uncovered the scheme.
13 Similarly, Johnny Wilson was admitted to USC back in 2014, but
14 agents did intercept Wilson on the wire when he came back for
15 more and called Singer about his two daughters in September of
16 2018, about a week before the agents approached Singer.

17 We played the Huneeus call for you and the Caplan
18 calls, Gordon Caplan, because those calls are evidence of how
19 the scheme worked and how Singer pitched it to the parents who
09:47 20 were participants in the scheme before the FBI approached him.
21 And Bruce Isackson described that to you in the same way.

22 In fact, you know that Singer's pitch was so
23 consistent that, as Agent Keating told you, the FBI had trouble
24 shaking him from it even when they told him to use different
25 language. Singer told the insiders -- I'm sorry -- Singer told

1 the parents that the money would go to the athletic program at
2 the schools, but Bruce Isackson told you that, despite what
3 Singer said, he thought the insiders must be pocketing some of
4 that money.

5 But wherever the money went, whether to the insider's
6 pocket or to their program, you know and the defendants knew
7 what it was for: Admission as a recruited athlete based on
8 falsified athletic credentials, getting insiders to recruit the
9 defendants' children by lying to their own colleagues in
09:48 10 admission. Wherever the money went, that's what it was for.
11 In plain English, we call that a bribe. In legal terms, it has
12 a fancier Latin name, quid pro quo. All that means is "this in
13 exchange for that".

14 And that's what Singer offered, a money back
15 guarantee. You saw the e-mail in which he confirmed that the
16 Isackson's donation would be returned if Lauren's admission to
17 UCLA were reversed. That's Exhibit 204.

18 Members of the jury, that is not a donation, no matter
19 what you call it, even if the money goes to a charity or even
09:49 20 if it goes to a university. No matter where the money goes,
21 that is a payment to get an insider to give up a recruitment
22 spot based on falsified athletic credentials. This in exchange
23 for that. That's fraud. And it's also honest services fraud.
24 And that was the scheme.

25 And it's the conspiracy to commit those two crimes

1 that's charged in Count 1 of the indictment against these
2 defendants.

3 Count 2 charges the defendants with conspiracy to
4 commit federal programs bribery, which is a form of bribery
5 involving a federally funded program, but it's based
6 essentially on the same conduct.

7 You know from the evidence that these defendants
8 joined in that scheme and that conspiracy knowingly and
9 intentionally. That's the second thing that you need to find,
09:50 10 that the defendants knew what they were doing and that they
11 intended to do it, and that they knew that what they were doing
12 is wrong.

13 One way you know that is because Bruce Isackson told
14 you that he knew it, from that witness stand. Just like these
15 defendants, his daughter Lauren actually played some soccer but
16 not at a recruitable level. He knew that Singer's scheme
17 required lying about her qualifications and paying money to get
18 an insider to recruit her based upon that lie. Remember how
19 many times Bruce Isackson told you from the witness stand that
09:51 20 it was all common sense? He knew, just as Huneus knew, just
21 as these defendants knew that, without the money, their kids
22 were not getting recruited. Without the money, the insiders
23 would never have lied to their colleagues in admissions.
24 Common sense.

25 And you have other evidence to back up what he told

1 you, including his own words captured on tape in realtime.

2 (Audio recording played.)

3 MR. FRANK: How worried did Bruce Isackson sound on
4 that tape, worried that Singer's phone was tapped, worried that
5 if the IRS probed too deep, they'd find out what the money was
6 for, that it was not a donation, that it was a payment for
7 admission? Bruce Isackson was worried because he knew that
8 what he was doing was wrong. And the evidence shows that these
9 defendants knew that as well.

09:52 10 Let's start with Mr. Aziz. This is Exhibit 330. It's
11 the e-mail in which Singer asked him for information for
12 Sabrina's USC athletic profile. Take a look at the subject
13 line of the e-mail. It actually says "For Me to complete USC
14 athletic profile". Then look what it says down below, "If they
15 play the sport", and basketball is filled in.

16 Now, of course you know that at the time Singer sent
17 this e-mail to Mr. Aziz, Sabrina didn't play basketball. She
18 hadn't played basketball for nearly two years. She never even
19 made her high school's varsity team, because that's what Rachel
09:53 20 Sih told you.

21 In this e-mail, Singer told Aziz that he was creating
22 a USC athletic profile. That's a profile to be recruited to a
23 Division 1 school for Sabrina in a sport she no longer played
24 and she had never played particularly well.

25 Ladies and gentlemen, this e-mail alone, this e-mail

1 alone is powerful evidence that Aziz knew what he was doing,
2 which was lying to get his daughter admitted to USC as a fake
3 basketball recruit.

4 Here's the e-mail where Singer requests a photo or two
5 of Sabrina playing basketball, just like he requested photos of
6 Bruce Isackson of his daughters. And here are some of the
7 photos that Mr. Aziz sent him. The defense points out that he
8 later sent even more photos, but you saw the e-mail in which
9 Singer told him that this is the photo they were going to use,
09:54 10 a photo that you know, because Rachel Sih told you, doesn't
11 depict Sabrina Aziz. It's not even her. That's Exhibit 345.
12 Singer keeps his coconspirator in the loop by telling him, we
13 will use this one.

14 Here's that same photo on Sabrina's fake athletic
15 profile. There is no dispute in this case that this profile is
16 fake. And Laura Janke testified to you that she made it up.
17 And how do you know that the defendant knew that? Well, for
18 one thing, because he sent Rick Singer that photo and Rick
19 Singer told him that's the photo he was going to use. But also
09:55 20 because Singer sent him the fake profile. That e-mail is
21 Exhibit 352.

22 Now, the defense wants you to believe that Mr. Aziz
23 never saw this e-mail because it was sent to his cox.net e-mail
24 address, but you know from Special Agent Keith Brown's
25 testimony that it was found in the Gmail account that the

1 defendant regularly used to correspond with Rick Singer and
2 many others.

3 Here's what else you know: Bruce Isackson told you
4 that he knew his kids' profiles were fake even though Singer
5 never even sent him the profiles. How did he know? Because
6 they would have to be fake since his kids were not athletes at
7 the collegiate level. And the whole point of the scheme, the
8 whole point, was to have them recruited as Division 1 athletes.
9 And the same is true of Gamal Aziz.

09:55 10 Members of the jury, you did not check your common
11 sense at the door with your cell phones when you came into the
12 courthouse, and you know, you know, just like Gamal Aziz knew
13 that Sabrina was not qualified to be recruited at the
14 Division 1 level as a practice player or as anything else.
15 Rachel Sih told you she didn't even make the varsity team at a
16 school that had never had anyone recruited to play basketball
17 at USC. And you saw her high school yearbooks. She didn't
18 even play basketball for the last 2 years of high school.
19 There was simply no possibility that she could ever be
09:56 20 recruited to play basketball anywhere, much less at USC.
21 That's common sense.

22 What happened next? Singer e-mailed this fake profile
23 to Donna Heinel, and Heinel presented Sabrina to the SUBCO as a
24 basketball recruit. Here is the packet of materials that the
25 SUBCO saw. And here's Heinel's write-up. Look what she says,

1 "Sabrina will be a great addition to our USC program". That's
2 exactly what she wrote for Agustina Huneeus, but you know
3 that's true.

4 In fact, Donna Heinel wasn't even responsible for
5 recruiting athletes to the basketball team or any team. That
6 wasn't her job. She was just the liaison between the coaches
7 and the Subcommittee. Rebecca Chassin told you she was the
8 member of the Subcommittee that testified. She told you that
9 the subcommittee thought this profile came from the basketball
09:57 10 coach because that's who recruits basketball players. But
11 Aaricka Hughes, who's the women's basketball coach, told you
12 she never heard of Sabrina Aziz and she certainly never
13 recruited her.

14 Look what else Donna Heinel did. She took the fake
15 profile Singer sent her and she embellished it even more. She
16 added more lies. For one thing, she changed the photo. She
17 took the photo that Singer sent and substituted a different
18 photo. And Rachel Sih told you that photo isn't Sabrina Aziz
19 either. That's a photo of a different player on the team that
09:58 20 was published in an online newspaper. And look what else she
21 did. She added 2 inches to Sabrina's height. Laura Janke
22 testified she made up the height on the left, the 5'8". Look
23 at the height Donna Heinel admitted to the SUBCO. She added
24 2 inches. It says Sabrina's 5'10".

25 Here's what else you know: Sabrina Abdelaziz would

1 not have been admitted to USC without being an athletic
2 recruit. Rebecca Chassin told you that the average unweighted
3 GPA of students who get accepted in the general population to
4 USC is 3.8, and none of the students in the SUBCO packets that
5 she looked at on that witness stand were qualified to get
6 admitted based on their academic qualifications alone. But
7 Sabrina's weighted GPA was only 3.2.

8 Now, I want to be very clear. We are not here making
9 fun of these kids. These kids are not on trial today, but
09:59 10 their parents are on trial because they wanted their kids to
11 get into those schools no matter what their academic
12 qualifications were, no matter what their athletic
13 qualifications were. These parents were not willing to take no
14 for an answer. To get to yes, they crossed a line. And in
15 crossing that line, they broke the law.

16 And you know what happened next. SUBCO did, in fact,
17 approve Sabrina's admission because, as Rebecca Chassin told
18 you, they believed Donna Heinel. They trusted her. She was
19 their colleague. They thought Sabrina Aziz was a legitimate
10:00 20 basketball recruit.

21 Here's the admission approval letter that Heinel sent
22 to Singer and here's the e-mail where Singer forwarded that
23 letter to the defendant. It's Exhibit 390. Take a look at
24 what it says. "Your records indicate that you have the
25 potential to make a significant contribution to the

1 intercollegiate athletic program as well as to the academic
2 life of the University". Just below that it requires Sabrina
3 to register with the NCAA. There is no dispute in this case
4 that the defendant received this letter, and he could not
5 possibly have thought that it was true, that Sabrina could
6 contribute to the intercollegiate athletic program at USC.

7 Look at the date of the letter, October 2017. Look at
8 what the defendant told the college counselor, another college
9 counselor who was advising Sabrina back in Hong Kong the
10:01 10 following month. That counselor recommended that Sabrina
11 submit an application to USC in December. What did Mr. Aziz
12 tell him? "We're going to pass".

13 Think about that. Sabrina had already been approved
14 for admission to USC by this point. She was in as long as she
15 fulfilled basic requirements, like registering with the NCAA
16 and submitting a formal application. But Aziz didn't tell the
17 counselor that. Why do you think? Because he knew that what
18 he was doing was wrong. And he knew that if he told that
19 counselor that Sabrina had already been approved for admission
10:01 20 to USC, that would have given away that she had been recruited
21 as an athlete, and anyone who knew Sabrina knew that that was
22 preposterous. Telling the counselor would have exposed the
23 lie, so Aziz couldn't tell him, so instead he just said, "We're
24 going to pass".

25 And you know what happened next. Sabrina did submit

1 her formal application to USC, as required by the admission
2 approval letter. You saw the e-mails in which the defendant
3 made sure that they followed the requirements of the admission
4 approval letter and Singer's instructions to answer one
5 question using playing basketball as a passion. Those are
6 Exhibits 415 and 459.

7 He even overruled Sabrina, who had written an essay
8 about something else. Common sense tells you why, because you
9 cannot be admitted as a division -- to a Division 1 school as a
10:02 10 basketball recruit without mentioning basketball in your
11 application. That would raise red flags in the admissions
12 office. In the same e-mail chain, Singer told the defendant
13 that basketball would go in Sabrina's activities on her
14 application.

15 Here's the essay that Sabrina e-mailed to Mikaela
16 Sanford, with a copy to her father. Look at the first
17 sentence, "the basketball court is like my art studio", this
18 from a girl who didn't even play basketball at the time that
19 this essay was submitted and hadn't played for nearly 2 years.

10:03 20 Now, the defense wants you to focus on e-mails between
21 Mikaela Sanford and Rick Singer, e-mails that his client wasn't
22 on, that were sent months after she'd already been approved for
23 admission to USC as a recruited athlete based on that fake
24 profile.

25 I'm asking you to look at the e-mails he was on: The

1 e-mail that he received and forwarded to his wife saying, "for
2 me to complete USC athletic profile" and "if they play the
3 sport"; the picture he sent to Rick Singer of other girls
4 playing basketball; the fake profile with the picture that Rick
5 Singer selected from that and told the defendant he was
6 selecting; the fake profile that was found in the defendants'
7 e-mail box; a lie to the other college counselor about passing
8 on applying to USC; the essay about basketball as a passion;
9 the e-mail telling him that basketball would go in the
10:04 10 activities section of Sabrina's USC application; the admission
11 approval letter telling him that Sabrina was admitted based on
12 her athletic potential and requiring her to register with the
13 NCAA. That's just the CliffsNotes, folks, an avalanche of
14 lies. And that's the fraud.

15 Next came the bill, \$300,000 for a so-called private
16 contribution to KWF, and the bogus donation letter that the
17 defendant received back. Look what it says. "This letter
18 shall serve as formal acknowledgment of your contribution for
19 which no goods or services were exchanged". Another lie. This
10:05 20 bill only came due after Sabrina was admitted to USC. It was
21 explicitly in exchange for her admission to USC. That's the
22 only reason he received the bill.

23 Singer told the defendant the money would go to USC.
24 There's no dispute about that. The defense has focused you
25 time and again on the fact that the payments to Donna Heinel

1 personally only started a few months after Mr. Aziz paid Rick
2 Singer. They've even put into evidence an FBI affidavit and a
3 government brief making those same points.

4 We agree. There's no dispute about that fact. We
5 told it to you in our opening statement. Singer's pitch was
6 that the money would go to the program in exchange for the
7 bogus recruitment. It's still a quid pro quo wherever the
8 money goes.

9 And some of the money did, in fact, go to USC. Look
10:06 10 at how much of the money flowing into the Women's Athletic
11 Board came over the period of the conspiracy from Rick Singer's
12 clients. You heard testimony that Donna Heinel's salary went
13 up by about \$100,000 over this same period. And you saw that
14 fundraising was an important part of her annual performance
15 reviews, but the evidence also showed that Singer kept a lot of
16 the money for himself or invested it in businesses and ventures
17 held in the name of his foundation, and eventually, you saw the
18 evidence that Singer began paying Vavic and Heinel personally.

19 (Audio recording played.)

10:08 20 MR. FRANK: Listen to what she said there. She wants
21 to structure the payment for Sabrina because it's a larger
22 amount of money. Now, initially, Heinel told Singer to have
23 the money sent to the Galen Center. That's where the
24 basketball team plays. That's Exhibit 439.

25 (Audio recording played.)

1 MR. FRANK: Ultimately, Aziz's money didn't go there
2 either. Instead, beginning in July of 2018, he started paying
3 Heinel \$20,000 a month --

4 MR. KELLY: Objection. He didn't start paying.

5 MR. FRANK: The checks were made out to her consulting
6 company.

7 THE COURT: Overruled.

8 MR. FRANK: But you know that that was just another
9 cover up.

10:09 10 In October of 2018, Singer, acting at the government's
11 direction, asked Heinel to put more detail on those invoices.

12 (Audio recording played.)

13 MR. FRANK: And you saw the detail that Donna Heinel
14 put into that next invoice. "Consulting Services", "interview,
15 evaluation and assessments for prospective students", and then
16 she lists three schools and three students.

17 The first name on the list, Abdelaziz, Singer didn't
18 tell her to put that name there. You just heard the call in
19 which all he did was ask her to put some detail on the
10:10 20 invoices. She chose to put that name there.

21 And the evidence showed that those checks were
22 deposited into Donna Heinel's personal bank account. The money
23 was in exchange for getting Sabrina Aziz admitted to USC as a
24 basketball recruit based on a fake athletic profile, for
25 getting Heinel to violate her duty to her employer by

1 misleading her own colleagues in the Admissions Department.
2 That's honest services fraud. And it's also federal programs
3 bribery. This in exchange for that, or in legal terms, quid
4 pro quo.

5 And I expect that Judge Gorton will instruct you that,
6 under the law, whether the money went to Donna Heinel's pocket
7 or whether it went to her program doesn't matter. What matters
8 is what the money was for. In this case, the evidence of
9 "that" is similarly overwhelming.

10:11 10 Listen to what Heinel told Singer about the payments
11 for two other students Isabel Janavs and Claire Altman. This
12 call happened, as Agent Keating told you, when Rick Singer was
13 in Boston.

14 (Audio recording played.)

15 MR. FRANK: Singer says, "Are you going to send me the
16 letter", that's the admission approval letter, and "then I'll
17 get them to forward the 50K". This in exchange for that. It
18 could hardly be any clearer, clear as day. And Heinel
19 responds, "Let's hold on that right now. I don't like to do
10:12 20 it" so close. So close to what? To the admission. That
21 \$50,000 is money going to the program, not her pocket, to the
22 program, but she doesn't want to do it so close to the
23 admission and the admission approval letter. Why? Because
24 that would raise red flags because she might get caught.

25 Members of the jury, this is devastating evidence that

1 the money to the program was a quid pro quo that Heinel hid
2 from her colleagues, in plain English, a bribe, even though the
3 money did not go to her pocket. There is no legitimate
4 explanation, none, for why Donna Heinel didn't want the money
5 to the program so close. The only reason is because she wanted
6 to hide the connection between the money and the recruitment.

7 Under the law, it does not matter that Singer did not
8 specifically tell Aziz that the money went to her pocket
9 because what matters is not where the money went, but what he
10:13 10 understood it was for.

11 Of course, Donna Heinel did have good reason to have
12 concern about getting caught. As you know, she almost did get
13 caught almost 6 months before this phone call putting fake
14 recruits through SUBCO. You heard that, in April of 2018, the
15 USC Admissions Department heard from several private schools
16 about applicants who had been recruited to USC as athletes but
17 didn't participate in those sports in their high schools.

18 Take a look at Exhibit 511. The Dean of Admission
19 writes "have we heard back from Donna on the cases where we
10:14 20 expressed concern?" Another Admissions Officer responds, "I
21 heard back on one I gave her, Sloane, the Italian player
22 Buckley said was a small guy. She says he really plays
23 internationally, met Jovan at a tournament in Serbia, and that
24 he's a solid talent".

25 Now you know that's not true because Laura Janke told

1 you that she invented the water polo profile for Matteo Sloane.
2 She simply made it up. And it goes on from there.

3 Heinel responds with more lies about two students,
4 Olivia, that's Olivia Giannulli, and Tyler. That's Tyler
5 Kornguth. Laura Janke testified she made up their profiles as
6 well.

7 Look at what the Dean of Admissions wrote. "Donna
8 also told the water polo coach the high school pushed back when
9 got back to the dad, who hollered at the counselors".

10:15 10 First of all, look at Exhibit 3772 on the right. You
11 can see Olivia Giannulli and Tyler Kornguth were side door
12 candidates that Singer provided to Donna Heinel.

13 Then the dean writes the parents hollered at
14 counselors. The date of that e-mail is April 13, 2018. And
15 you heard the voicemail that Donna Heinel left for Rick Singer
16 one day earlier, April 12, 2018.

17 (Audio recording played.)

18 MR. FRANK: Think about those words, "I don't want
19 anybody going into Buckley or Marymount", those are two private
10:15 20 schools in California, "yelling at counselors. That'll shut
21 everything down". What will it shut down? The fraud scheme,
22 the steady stream of bribes from Rick Singer and his clients.
23 That's what it will shut down.

24 And look at what else Heinel told Singer to do. You
25 can't see it here but you'll see it on the transcript or you'll

1 hear it on the audio, which is in evidence. "Make sure that if
2 questioned at the school, they respond in an appropriate way
3 that they are walk-on candidates for their respective sports".
4 That's what else she tells him in that voicemail.

5 Members of the jury, this is more devastating evidence
6 of the fraud, to lie to the high schools, to lie to USC, to lie
7 to the Admissions Department, and to get students admitted to
8 USC as fake athletic recruits in exchange for money.

9 And here's how else you know that Gamal Aziz was in on
10:16 10 that scheme, because he told you so in his own words. This is
11 what he told Rick Singer in a recorded call on October 25,
12 2018, while Singer was here in Boston.

13 (Audio recording played.)

14 MR. FRANK: "Of course."

15 "Of course."

16 That's Gamal Aziz's words, "of course." Of course
17 he's okay with not telling the IRS that the \$300,000 was paid
18 to Donna Heinel to get Sabrina into school even though she
19 wasn't a legitimate basketball player at that level, because
10:18 20 why would you tell the IRS that the money was a quid pro quo?
21 Why would you tell the IRS that you were involved in a fraud
22 scheme?

23 The defense has focused on Singer's word choice here,
24 that he said the money was paid to Donna Heinel, rather than to
25 a program administered by Donna Heinel, and that Singer used

1 Heinel's name, which he hadn't used with Aziz before.

2 Again, there is no dispute about those things.

3 There's no dispute. And they don't matter. The defendant was
4 not confused. He knew his daughter was recruited to play
5 basketball at USC even though she was not a legitimate
6 basketball player at that level. He admitted it on the call.
7 That is fraud.

8 He also knew that somebody at USC pretended to recruit
9 her based on those fake credentials in exchange for the money,
10:19 10 whatever it was. That's honest services fraud.

11 "Of course." That's what the defendant responded when
12 Rick Singer said he would lie to the IRS by not telling them
13 those things. Think about what Gamal Aziz did not say on that
14 phone call. Rick, what are you talking about? Rick, my
15 daughter is a legitimate basketball player at that level.
16 Rick, I thought you said she could be a practice player or a
17 manager. He didn't say any of those things because he knew
18 exactly what Singer was talking about.

19 And here's what else he said.

10:20 20 (Audio recording played.)

21 MR. FRANK: There's the cover story. "My intention
22 was to donate the money to the foundation... and then from
23 there obviously ... do they have the intention of reaching out
24 to the people that sent those payments". You can actually hear
25 him stutter in that call. The wheels are turning. And if that

1 wasn't clear enough, here's what happened next.

2 (Audio recording played.)

3 MR. FRANK: "Anybody who isn't a real basketball
4 player that's a female, I want you to use that profile going
5 forward". How did the defendant respond? "I love it". "I
6 love it".

7 The defense tried to suggest that Mr. Aziz uses that
8 expression a lot. Maybe he does, although there's certainly no
9 evidence of that in this case, but so what? I love it is what
10:22 10 we say when we agree with something, when we're happy about it,
11 when we think it's funny. Those are the defendant's words.
12 That's what he said when he was told that his daughter's fake
13 athletic profile was so good, that it worked so well, that it
14 was going to be used in the future to get other fake athletes
15 admitted to USC.

16 Throughout this case the defendants have tried to get
17 you to focus on what Rick Singer said and what Rick Singer did,
18 but this is the defendants' trial. It's their words. It's
19 their actions. It's the choices that they made that are the
10:22 20 reason that we're here today. And when you go back to the jury
21 room to think about those things, I'd ask you to think about
22 Mr. Aziz's next interaction with Rick Singer on January 3,
23 2019.

24 (Audio recording played.)

25 MR. FRANK: Members of the jury, there is no innocent

1 explanation for that phone call. Singer just told the
2 defendant that an insider at USC in the Athletic Department,
3 Donna Heinel, had lied to Admissions about why Sabrina wasn't
4 playing basketball. He said that she had invented an injury,
5 plantar fasciitis, and had told Admissions that's why Sabrina
6 hadn't shown up. And how did the defendant respond? He wasn't
7 concerned or surprised about the fact that Sabrina hadn't shown
8 up for practice. Of course not, because he knew she wasn't
9 going to show up. That was the whole plan. He knew that
10:25 10 already. He was concerned that Admissions would call Sabrina
11 and ask her about it and then, without missing a beat, he
12 agreed to lie. "That's fine. I will answer the same should
13 they call me".

14 Lying is not what someone does when they're acting in
15 good faith. People lie when they know they've done something
16 wrong, to cover their tracks, and that's why Gamal Aziz agreed
17 to lie when Singer told him that the USC Admissions Department
18 might call. And listen to what he said next.

19 (Audio recording played.)

10:26 20 MR. FRANK: "Should I mark this as a charity or not
21 because you got me concerned when you called me the last time?"
22 The defendant is referring to the call nearly 3 months earlier
23 when Singer told him that KWF was being audited, the call that
24 we just heard a moment ago when he said "my intention was to
25 donate the money to the foundation". Think about that. If

1 Mr. Aziz thought he had made a legitimate donation, why was he
2 worried and concerned about an audit of KWF, Singer's charity?
3 Those are his words.

4 He brought up the audit on this call out of the clear
5 blue. He was worried for the same reason Bruce Isackson was
6 worried when Singer made the same call to him, because he knew,
7 just like Bruce Isackson knew, that it was not a legitimate
8 donation, that it was a payment in exchange for admission for
9 getting his daughter recruited to USC to basketball even though
10:27 10 she didn't play basketball. This in exchange for that. And
11 that is not charity. That's a quid pro quo, wherever the money
12 goes, and you can't deduct it from your taxes.

13 And how does he respond when Singer reassures him that
14 the money went to a 501(c)(3)? "I just wanted to make sure
15 we're on the same page". Think about that. When you donate
16 money to the American Cancer Society or to the Jimmy Fund, you
17 don't call them up to make sure we're on the same page. That
18 is the language of conspiracy. Those are the words of
19 conspirators getting their stories straight because they have
10:28 20 something to hide because getting a fake tax deduction for a
21 fake charitable donation for a fake athletic recruitment for a
22 fake athlete was the icing on the cake of this conspiracy.

23 And that brings us to John Wilson. He joined the
24 conspiracy before Gamal Aziz and it worked so well that he came
25 back for more for his daughters. Milestones of his involvement

1 are largely the same. From the beginning, it was clear what
2 Wilson was buying a recruitment spot for an athlete that
3 wouldn't make it on his own as a way to get admitted to USC.

4 This is Exhibit 48, an e-mail dated February 12, 2013.
5 Singer says to Wilson, "Jovan is giving me 1 boys slot and as
6 of yet no one has stepped up to commit".

7 The defendant's wife Leslie responds with a question,
8 "is another candidate looking at USC also so we should be
9 pushing Johnny to decide if that's his number 1 choice - as I
10:29 10 mentioned hate to lose this due to us taking too long to decide
11 (Johnny is unaware of this arrangement)".

12 You know, just as the defendant knew, that Johnny was
13 not good enough to earn that spot based on merit.

14 This is Exhibit 49, March 26, 2013. Singer tells him,
15 "at LMU they are not very interested in Johnny - same for
16 others".

17 And the defendant replies, "so, none of the teams
18 really, even LMU, want to meet with him on their campus"?

19 And later, "if swimming and water polo are not
10:30 20 realistic for Johnny, then what are the schools that he has a
21 realistic shot at (without help)". Those are the defendant's
22 words, "swimming and water polo are not realistic for Johnny".
23 As good as Johnny was, he was not good enough to get recruited
24 by USC, which consistently has the best water polo team in the
25 entire country.

1 And the defendant's own witness Jack Bowen told you
2 the same thing. As fond of Jack Bowen was of Johnny, he
3 testified Johnny was a B plus player and USC recruit A, A plus
4 players. He told you that he did not think Johnny would get
5 admitted to USC as a water polo player. That was their
6 witness.

7 Look at what else the defendant says in this e-mail.
8 "What would a bench warmer position mean? Would the other kids
9 know he was a bench warmer side door person?"

10:31 10 Then in the very next e-mail, "obviously his skill
11 level may be below the other freshmen. In your view will he be
12 so weak" that he will "be a clear misfit at practice"? He was
13 worried that Johnny would stick out like a sore thumb, that it
14 would be obvious to his teammates that he had no business being
15 on the team, that his very presence, his very presence would be
16 a giveaway that he got in some illegitimate way because the
17 defendant knew that what he was doing was wrong and he was
18 worried that somebody else might figure it out.

19 And Singer told Wilson that Johnny would not have to
10:31 20 play, that the team was big enough that he could hide. He
21 said, "the commitment is to be on the roster not attend all
22 practices", "frankly after the first semester he can move on".

23 You saw another e-mail in which Singer told Wilson
24 Johnny wouldn't even have to get in the pool.

25 And Casey Moon told you that is what happened. Johnny

1 didn't practice with the team and he dropped off the roster
2 after just one semester.

3 Now, Johnny's friends testified that he did come to
4 some practices at the beginning of the semester and at the end
5 of the semester. I leave it to you to judge their credibility,
6 but here's the point. Whether he showed up for a few practices
7 or no practices, however many practices he showed up for, there
8 is no dispute that he was not an immediate impact player. Once
9 again, the defendant's own witnesses told you that and he did,
10:32 10 in fact, move on after the first semester, just like Rick
11 Singer said that he could.

12 And you know what happened next. First came the
13 falsified athletic profile. Singer told the defendant that he
14 was sending Vavic "a transcript, test scores and player profile
15 so he could add Johnny to his recruit list and present him to
16 admissions in October". A player profile to present to
17 admissions for the kid the defendant was just told wouldn't
18 have to get in the pool, the kid he was worried would be a
19 clear misfit on the team.

10:33 20 Look how the defendant responds. "Great - let me know
21 when you have verified you have it all completed and into
22 Jovan. Also when and where to wire money". That's Exhibit 75.

23 And you know all about that player profile. Here's
24 what Singer told Wilson about it in a subsequent e-mail. This
25 is Exhibit 83. "Jovan has Johnny's stuff and asked me to

1 embellish his profile more, which I am doing". Singer is
2 literally telling the defendant that he is going to falsify the
3 profile at the direction of the water polo coach.

4 And he even tells him why. "Jovan will provide
5 Johnny's info to admission when he does his other guys" next
6 month. That is the fraud.

7 And then this, "no payment of money until he gets a
8 verbal and written from admissions and then 50 percent to a
9 saving account I set up. Then the remainder upon an acceptance
10:34 10 letter in March with everyone else".

11 That is the bribery. No talk of donations. Payment
12 for admission to a savings account I set up based on an
13 embellished profile that Jovan will provide to admission for a
14 kid who would be a clear misfit and wouldn't have to play.

15 These e-mails alone are enough to convict Wilson of
16 the conspiracies charged in Counts 1 and 2, just these e-mails.

17 The defense spent a lot of time on the word
18 "embellish". They want you to believe it has an innocent
19 meaning. You know embellish is just another fancy word for
10:35 20 lie. Days after this e-mail Singer sent Wilson the embellished
21 profile and the defendant's own witnesses told you it was full
22 of lies.

23 Coach Bowen told you Johnny was not a four time
24 varsity letterman and he was never, not once, cocaptain of the
25 team, and he hadn't even heard of many of these awards.

1 Andrew Maricle, Johnny's close friend and college
2 roommate, told you that he didn't even know if a swim time of
3 43 seconds on the short course was even possible. And you saw
4 the e-mails where Singer simply invented those times.

5 Coach Bowen told you this profile made Johnny look
6 like a better player than he actually was.

7 And you know that the defendant sent this falsified
8 profile to Wilson. There's the e-mail right there. It's
9 Exhibit 88.

10:36 10 Now, the defense wants you to believe that he never
11 read it, because if he had, he would have corrected the address
12 in the top right corner where it says "Street" instead of
13 "Place". You know that he was in this same e-mail account
14 barely 90 minutes later e-mailing another copy of the same
15 photo to his wife for Johnny's yearbook page. And he also made
16 plans to meet with Rick Singer the next day.

17 Here's what else you know: The fake profile worked.
18 Johnny was admitted as a water polo recruit because the members
19 of the SUBCO believed Coach Vavic. They trusted him. They had
10:37 20 no reason not to. He was their colleague.

21 And here's what Coach Vavic told them: That Johnny
22 was a top ten attacker in grad class. Casey Moon told you what
23 that meant. That meant he was one of the top 10 attackers in
24 the country that year and that he would be an immediate impact
25 player. And Johnny Wilson's own friend, Andrew Maricle, told

1 you that was not true, he was not an immediate impact player.
2 And his high school coach, Coach Bowen, told you the same
3 thing, he had no chance of being an immediate impact player.
4 Those were the defendant's own witnesses.

5 Why did Coach Vavic lie to the Admissions Department?
6 Because of what happened next. Wilson asks Singer to send him
7 the bill. Look at the subject line of this e-mail. It's
8 Exhibit 710. "USC fees". And he writes "thank for making this
9 happen! Please give me the invoice. What are the options for
10:38 10 the payment? Can we make it for consulting or whatever from
11 The Key so that I can pay it from the corporate account?"

12 Singer's response, "yes we can send you an invoice for
13 business consulting fees" and you can write it off as a
14 business expense.

15 Where to begin? First, look at the words the
16 defendant used, "invoice", "fees", "payment". That's not the
17 language of charity. That's how you talk when you buy
18 something. That's how you talk when you pay someone a fee for
19 services that they've rendered. And you know that is exactly
10:38 20 what happened here. The defendant literally says "thanks for
21 making this happen". "This" was Johnny's admission to USC as a
22 recruited water polo player. The defendant was paying The Key
23 for making that happen. He was asking for the bill for getting
24 Vavic to lie to the Admissions Department to recruit Johnny as
25 an immediate impact player when the defendant himself thought

1 he would be a clear misfit. "This" in exchange for "that". It
2 couldn't be any clearer from this e-mail.

3 Second, if you think you're making a legitimate
4 donation, you don't write it off from your business as a
5 consulting expense. And this wasn't his assistant Debbie
6 Rogers' fault. Here's the defendant telling her a month later
7 "charge it to business consulting". Look at the dates on those
8 e-mails. First is March 1st. The second is March 2nd. That
9 wasn't an accident. This was the defendant telling her what to
10:39 10 do. It wasn't a lie Rick Singer came up. This was a lie the
11 defendant came up with all by himself. This was his lie. And
12 lying is not what somebody does when they're acting in good
13 faith.

14 And you know where the defendant's money ended up.
15 \$100,000 went to the USC Men's Water Polo Fund. That was the
16 quid pro quo payment Coach Vavic got for getting Johnny
17 admitted as a water polo recruit based on falsified
18 credentials. The rest of the money stayed with Rick Singer
19 because, once again, there's no honor among thieves.

10:40 20 Here's what else you know: Singer also paid year
21 after year for Vavic's kids to go to private school. This
22 wasn't for Johnny specifically. It started after a year after
23 he was admitted to USC, even a year after he quit the water
24 polo team, but it was part of the same conspiracy.

25 You heard Vavic admit it on tape at Exhibit 620. For

1 that money, he was going to admit another kid that Singer sent
2 his way, but he warned Rick Singer that things had gotten
3 harder.

4 (Audio recording played.)

5 MR. FRANK: "He can't just be a total nobody". Why?
6 Because Admissions would catch on. Singer didn't tell the
7 defendants that he was paying the insiders personally, and he
8 didn't tell them that he was keeping a chunk of the money for
9 himself, but the personal payments to Heinel and to Vavic were
10:41 10 part of the conspiracy, just as much as the payments to their
11 funds. And wherever the defendants thought the money was
12 going, they knew what they were getting in exchange and they
13 were satisfied with what they got, so satisfied that John
14 Wilson came back for more.

15 Here he is, in his own words, on September 15, 2018,
16 when neither he nor Rick Singer knew that the government was
17 listening.

18 (Audio recording played.)

19 MR. FRANK: John Wilson is the one who says on that
10:42 20 recording that the sport is not going to even matter. And then
21 they literally make up the sport right there in the phone call
22 on the phone in the very same breath that they're talking about
23 how much it's going to cost to get his daughters into Harvard
24 and Stanford as fake athletes in that sport. "I will make them
25 a sailor or something. Because of where you live".

1 When you go back to the jury room, ladies and
2 gentlemen, listen to this exchange, and listen carefully to how
3 the defendant responds. He laughs. He thinks it's funny.
4 This is before the FBI approached Rick Singer. This is
5 devastating evidence of the crime as it is happening.

6 And listen to what he has next: "Is there a two for
7 one special? If you got twins?" This senior executive, this
8 Harvard School graduate, he isn't troubled over the fraud.
9 He's haggling over the price.

10:43 10 Kids work hard to be recruited athletes. They devote
11 their lives to it. Aaricka Hughes, Laura Janke, the
12 defendants' own witnesses tell you about the hours they spend
13 each day making enormous sacrifices to become elite athletes.
14 And as hard as they work, there are only so many who can make
15 it because there are only so many spots available.

16 The evidence showed that, at USC, 56,000 kids applied
17 in 2018 for admission and only about 15 percent got in. Only
18 about 200 to 250 were presented to the SUBCO as recruited
19 athletes, but almost all of those kids got in through the
10:44 20 SUBCO. And that's true even though their average grades and
21 test scores were below that of the general population.

22 For John Wilson, buying an admission spot for his
23 daughters who didn't play sports was funny. It was as simple
24 as writing a check. Here he is again in his own words.

25 (Audio recording played.)

1 MR. FRANK: The mascot. At another point he talks
2 about her being the scorekeeper or water girl because he thinks
3 it's funny, a joke, because he knows that Harvard doesn't
4 really recruit mascots. That is fraud, ladies and gentlemen.
5 It is as raw as it gets. And John Wilson knew it.

6 As Agent Keating told you, these calls were designed
7 to strip away the cover stories. Now, did Rick Singer follow
8 the agents' instructions perfectly? No. He fell back on his
9 old pitch. He sometimes used the word "donation" and "program"
10:45 10 instead of "payment" and "coach". But what's happening in the
11 calls is completely unambiguous. Wilson is agreeing to pose
12 his daughters as athletes in a sport they don't play. That is
13 fraud. And he's agreeing to induce the coaches of those sports
14 to recruit them in exchange for money. That is honest services
15 fraud regardless of whether the money is going to the coach
16 personally or their program. And listen to what else Singer
17 told Wilson.

18 (Audio recording played.)

19 MR. FRANK: That's Exhibit 578 again. "I can sell to
10:46 20 anybody that they're athletic enough to take 'em and there'll
21 be no question".

22 You know what "sell" means. It means I can pose them
23 as elite athletes even though they aren't, and there will be no
24 question. No question from who? From Admissions.

25 And Wilson knew what this meant. How did he respond?

1 "Even though they wouldn't play. Ok". Because he knew they
2 needed to be sold as athletes even though they wouldn't play,
3 just like with Johnny, only here it's even more blatant because
4 they don't even play the sport.

5 On those recorded calls, Singer told him again and
6 again and again that Admissions didn't know. He said, stay
7 away from Admissions. They're not involved in this. This
8 isn't going through them. Stay away from Development. You
9 don't want them asking questions. Those are Exhibits 623 and
10:47 10 625.

11 (Audio recording played.)

12 MR. FRANK: "I just want to make sure that we keep
13 this clean". Wilson didn't ask why they should stay away from
14 Admissions because he knew why. He just wanted to know if they
15 should still go back on campus and interview or would that give
16 it away.

17 When you go back to the jury room, listen to
18 Exhibit 591.

19 (Audio recording played.)

10:48 20 MR. FRANK: Listen to how slowly and clearly Singer
21 says it, not once, but twice. He has to recruit some real
22 sailors so that Stanford doesn't catch on. How does the
23 defendant respond? He laughs. He even repeats what Rick says,
24 "Yeah. He's got to actually have some sailors. Right".

25 Wilson thinks it is funny to buy a sailing spot at

1 Stanford for a kid who can't sail, who will, in his own words,
2 look really stupid even trying to be the bag carrier of
3 sailing. That's at Exhibit 625 again. He's not bothered by
4 the fraud. His worry is making sure he buys an admission spot
5 to a school his daughters actually want to attend.

6 (Audio recording played.)

7 MR. FRANK: A high-class problem, Posing your kid as a
8 fake athlete to get her admitted to Stanford in a slot reserved
9 for an actual athlete in exchange for money. And then finding
10:49 10 out, oh, geez, she wanted to go to Harvard instead.

11 But here's what John Wilson did not know. He did not
12 know that the government was listening to those phone calls.
13 He did not know that the conspiracy had been uncovered and that
14 Rick Singer had started taking directions from government
15 agents. He did not know that this e-mail asking Singer to bill
16 his bribe payment as a consulting fee or whatever so that he
17 could pay it from the corporate account or this e-mail
18 instructing his assistant to work with Singer to get the
19 invoice correct, he didn't know that those e-mails and these
10:49 20 calls would one day be placed before a jury of his peers in a
21 Boston courtroom.

22 Here are the fake consulting invoices that Debbie
23 Rogers had prepared at the defendant's direction.

24 And here's the e-mail in which she confirmed with the
25 defendant that they would report those payments as both

1 consulting fees and a charitable donation.

2 And here's the tax return which you can see was mailed
3 from Lynnfield, Massachusetts in which he deducted the payment
4 for Johnny Wilson's admission to USC, splitting it between
5 \$120,000 in fake consulting fees, which he wrote off as a
6 business expense, and \$100,000 as a fake charitable donation.
7 His tax preparers relied on the information he provided them.
8 What they didn't know was that there wasn't any consulting and
9 there was no charitable donation. They didn't know that was in
10:50 10 exchange for getting Johnny admitted to USC as a water polo
11 recruit based on a fake profile.

12 John Wilson signed this tax return on penalty of
13 perjury. He verified that it was true. He knew that it was
14 not.

15 Agent Ranahan told you the IRS would not have allowed
16 these deductions if they had known what the money was for and
17 if he hadn't taken them, he would have owed close to \$90,000 in
18 additional taxes. The defense argued, well, he paid a lot of
19 taxes already, but you can't lie on your tax returns just
10:51 20 because you pay a lot of taxes. There's no exemption from the
21 truth for rich people. And lying on your tax returns is not
22 acting in good faith. If you think you're making a legitimate
23 charitable donation, you don't write it off as a business
24 expense. That's fraud.

25 Few final points. First, you know that this fraud

1 mattered. You heard evidence that without it it was highly
2 unlikely that the defendants' children would have been admitted
3 to USC, but by posing as athletic recruits and getting
4 recruited, their admission was virtually guaranteed.

5 Second, the defendants have made much of the fact that
6 they don't know each other, that they weren't involved in any
7 larger conspiracy they say, but you know that that's not true.
8 This was not some one-off scheme that Rick Singer developed for
9 John Wilson or Gamal Aziz. His whole pitch, his whole pitch
10:52 10 was that he had done it before, that it was tried and true.
11 You heard him explain that to Gordon Caplan and to Agustin
12 Huneeus.

13 Bruce Isackson testified that Rick Singer told him the
14 exact same thing. And he told you why that was so important to
15 him, because he didn't want to be a guinea pig. He wanted to
16 make sure that this scheme worked, that other parents had done
17 it before. And the whole nature, the whole nature of the
18 scheme was that it would only work if there was a network of
19 corrupt coaches willing to admit kids as fake athletic recruits
10:52 20 in exchange for money and a whole network of parents who were
21 willing to participate.

22 That is the reason that Rick Singer was able to offer
23 his clients a network of different schools, all those different
24 options, UCLA, USC, Georgetown with Gordie Ernst, Yale with
25 Rudy Meredith. Gamal Aziz and John Wilson didn't need to know

1 each other to know that they were joining in something that was
2 bigger, a conspiracy that extended far beyond Rick Singer and
3 involved other parents and other coaches and all of the other
4 people, like Laura Janke and Mikaela Sanford, who made it
5 happen.

6 And you saw evidence that the Wilson's were connected
7 to the Palatella's and to their son Gino, who's one of the
8 students that Heinel admitted to USC as a fake football
9 recruit. Those were Exhibits 409 and 563.

10:53 10 And the Wilson's, in turn, introduced Singer to their
11 friends the Driscoll's, parents of Johnny's friend Wyatt
12 Driscoll, who was recruited to USC to play basketball. That's
13 Exhibit 64.

14 Here are the checks from KWF to USC baseball and USC
15 water polo. The baseball check says "Driscoll family" right on
16 top of the check. The water polo check says "Wilson family"
17 right on the top of the check. Look at the date, April 16th,
18 the very same date.

19 Once in, every parent was vested in the scheme's
10:54 20 success, not just in getting their own kid's admission into
21 college but continuing to make sure it worked so, like Bruce
22 Isackson and like John Wilson, they could come back for more
23 for their younger kids, and also so that the whole thing didn't
24 unravel, because if it unraveled as to one parent, there was
25 the threat that it would unravel as to all.

1 That's why Bruce Isackson told you he was so relieved
2 that there was all that money. You heard him on tape talking
3 about all that money in KWF from all those different parents
4 and all the money going out of the KWF to all those different
5 places. He was relieved about that fact because that fact
6 would make it harder for anyone to ever figure out what was
7 going on. And that is just one way that these parents all
8 shared the same goal and were dependent on each other to
9 achieve that goal.

10:55 10 Finally, a quick word on Rick Singer. The defense has
11 made much of the fact that the government didn't call him as a
12 witness in this trial, but as we told you at the outset, you
13 heard a lot about him and you heard a lot from him, in his
14 e-mails and in those recorded phone calls, and in the testimony
15 that you heard from all those witnesses.

16 You know a lot about Rick Singer, that he wasn't
17 truthful, that he didn't follow agents' instructions, that he
18 deleted text messages, and even that he tipped off some of the
19 parents that the government was investigating.

10:55 20 He took these notes accusing the agents of telling him
21 to lie and he e-mailed them, as you can see at the top, to his
22 lawyer. That's Exhibit 714. These weren't a diary. These
23 were notes for his lawyer. He accused Agent Keating of raising
24 her voice and trying to get his coconspirators to agree to a
25 lie about where their money was going, but you know exactly

1 what he said on those consensual recordings because we played
2 those recordings for you. And you heard how the defendants
3 responded.

4 Here's what else you know: The defendants made the
5 choice to join forces with Rick Singer and the other
6 participants in his scheme to get their kids into college
7 through fraud and bribery. They chose Rick Singer. We didn't
8 choose him. They did. He's their guy. At the end of the day,
9 this trial is not about Rick Singer. This trial is about them.
10:56 10 It's about the choices they made. It's about their actions.
11 It's about their intentions.

12 Now I told you earlier that the defendants are charged
13 in Counts 1 and 2. Count 1 charges conspiracy to commit mail
14 and wire fraud and honest service mail and wire fraud. As the
15 judge will instruct you, a conspiracy is nothing more than an
16 agreement between two or more people to do something that the
17 law forbids. It doesn't have to be explicit. It doesn't have
18 to be written down. It can be a common understanding.

19 Here, as you know, there was an understanding between
10:57 20 the defendants and Singer and many others to get their children
21 into college in two interconnected ways, by lying about their
22 athletic credentials, that's fraud, and by inducing corrupt
23 insiders in athletic departments to mislead their colleagues to
24 get those children admitted as fake recruits in exchange for
25 money. That's honest services fraud. And you know there was a

1 lot of mailings and a lot of wires and e-mails and phone calls
2 and admission letters sent through the mail as part of that
3 scheme.

4 Count 2 charges them with conspiracy to commit federal
5 programs bribery. That's a form of bribery that involves
6 bribing an agent of a program that receives more than \$10,000
7 in any one year from the federal government. And you heard
8 evidence that USC and Harvard and Stanford all received
9 millions of dollars.

10:58 10 Mr. Wilson is charged with three additional counts of
11 wire fraud and honest services wire fraud and two additional
12 counts of federal programs bribery. Those are for the wires he
13 sent to a Boston bank account, it's set forth there in Exhibit
14 707 and 708, in exchange for getting his daughters admitted to
15 Harvard and Stanford as fake athletes, as well as the
16 10/27/2018 phone call he had with Rick Singer in furtherance of
17 that scheme while Singer was in Boston.

18 I expect Judge Gorton will instruct you that it
19 doesn't matter that there wasn't actually an Harvard
10:58 20 administrator and we weren't actually going to let the Stanford
21 sailing coach get bribed. Mr. Wilson didn't know that when he
22 agreed to make those things happened, when he tried to make
23 those things happened.

24 He's also charged with one count of filing a false tax
25 return for lying about the payment for Johnny's recruitment on

1 his taxes. And you know that those lies mattered because they
2 inhibited the IRS from figuring out what he actually owed and
3 because it helped save him close to \$90,000.

4 During the course of this trial, ladies and gentlemen,
5 you've heard a lot about the college recruitment process and
6 the admissions process. You've seen hundreds of documents and
7 e-mails. You've listened to numerous recorded phone calls.
8 You've heard from over a dozen witnesses, but at the end of the
9 day, the only thing you really need to decide this case is what
10:59 10 you walked into this courtroom with three and a half weeks ago,
11 and that's your common sense.

12 Common sense tells you that it is wrong to fake your
13 children's athletic qualifications to get them admitted to
14 highly competitive colleges as recruited athletes when they
15 aren't good enough to play and they don't intend to. That is
16 fraud.

17 Common sense tells you that it is wrong to get
18 insiders at those schools to mislead their colleagues to
19 recruit those children using those falsified credentials in
11:00 20 exchange for money. That is honest services fraud, bribery.

21 And common sense tells you it is wrong to lie on your
22 taxes by deducting the cost of those bribes as fake business
23 expenses and phony charitable contributions. That is tax
24 fraud.

25 You don't need to be a senior corporate executive or a

1 graduate of the Harvard Business School like these two
2 defendants to know about those things.

3 All of the evidence in this case, the tapes, the
4 e-mails, the documents, the testimony, all of it leads to a
5 single inescapable conclusion: These two defendants, John
6 Wilson and Gamal Aziz, are guilty beyond a reasonable doubt as
7 charged.

8 Thank you.

9 THE COURT: All right, jurors. Before we hear from
11:01 10 the defendants, we'll have a short recess. It won't be a
11 complete recess. About 10 minutes. We'll be back.

12 THE CLERK: All rise for the jury.

13 THE COURT: We're in recess for 10 minutes.

14 (Recess taken 11:02 to 11:18 a.m.)

15 (Pause in proceedings, court reporter had
16 technical difficulties.)

17 THE COURT: Mr. Kelly.

18 MR. KELLY: Thank you. This is like icing the kicker
19 in a football game.

11:18 20 But good morning.

21 So let's get back to reality here, okay, not some
22 prosecutorial fantasy land where they're talking about corrupt
23 insiders, corrupt insiders, and they don't name them.

24 Look, he who must not be named, no, they must be
25 named; we're in federal Court.

1 The only corrupt insider you heard evidence about was
2 Donna Heinel, and she didn't go bad, apparently, until the
3 summer of 2018, well after Gamal Abdelaziz made his donation.
4 And it's beyond dispute he doesn't even know her.

5 The prosecutor wants to get up here and keep repeating
6 that phrase, "quid pro quo," "quid pro quo." It means this for
7 that.

8 Okay. A quid pro quo is not illegal unless there's
9 corrupt intent. So, for instance, if you are lucky enough to
11:19 10 go to the Red Sox game last night, you paid the Red Sox money
11 for a ticket. It's a quid pro quo. You go to the grocery
12 store, you buy groceries, you pay money for groceries, that's a
13 quid pro quo. There's nothing wrong with it. It has to be a
14 corrupt intent. And here, the two charges, and only two
15 charges against my client, are conspiracy charges.

16 The government has the burden of proving specific
17 intent, what was in his mind, not what was in the mind of all
18 these people in some supposed nationwide conspiracy.

19 They have to prove the conspiracy they charged in this
11:19 20 indictment, not some other conspiracy in some other indictment.
21 If they have mischarged this, it's not guilty.

22 There's no proof that Gamal Abdelaziz had specific
23 intent to join some nationwide conspiracy. There simply isn't.

24 Now, the government keeps trying to suggest -- and
25 when you hear instructions from the Court tomorrow, you'll

1 learn that proof that a defendant willfully joined an agreement
2 must be based upon evidence of his own words and actions. Not
3 Bruce Isackson, the guy he doesn't even know, the guy who tells
4 you he won't lie to you to avoid prison, although he lied to
5 get his daughter into school. He has nothing to do with Gamal
6 Abdelaziz.

7 You'll hear from the Court that good faith, if he
8 thinks what he's doing is legitimate, he thinks he's dealing
9 with a trusted college counselor, that's a defense in this
10 case. What's in his mind, not somebody else's mind, not some
11 lawyer in New York he doesn't even know.

12 And the reasonable doubt standard which applies to
13 them, it can arise not just from evidence that's produced in
14 this court but also from a lack of evidence.

15 You know, the government keeps trying to suggest that
16 Sabrina Abdelaziz stole a seat somehow from somebody at USC.
17 It's not true; it's not true at all.

18 You heard from Ms. Chassin from USC, they let in 8,500
19 kids her year with the expectation that only 3,200 or 3,300
20 were going to go there. There's no -- USC did not lose a seat;
21 the basketball program was not affected. So to the extent
22 they're waiving this around like some big harm, it's not true.

23 Coach Hughes, she said it best when I asked her:

24 "Now, when you were an assistant coach at USC, the
25 team had approximately 13 to 15 players, right?

1 "Yes.

2 "So the number varied year to year, right?

3 "Correct.

4 "And if someone were to say that USC's women's
5 basketball team used practice players and a team manager, that
6 would be true, right?

7 "Yes.

8 "And when Sabrina Abdelaziz arrived on USC's campus in
9 2018, she had not been recruited by you, correct?

11:21 10 "Correct.

11 "And the USC women's basketball that year wasn't short
12 a player because of Sabrina's presence on campus, was it?

13 "No."

14 So let's put aside that, put aside that there's
15 somehow some harm to USC by Sabrina going there.

16 Also, this was a crime without a motive. They didn't
17 prove any motive. This is not a murder case where the intent
18 is an evil intent. This is a white collar case. Usually you
19 have a motive of greed. What's the motive here? He gave away
11:22 20 his money. He was lucky enough to have made a lot of money and
21 he gave it away. He gave it away to Columbia, gave it away to
22 USC.

23 What are they going to say to him now? Oh, it's
24 prestige. Oh, he did it for prestige. This guy had plenty of
25 prestige. Successful executive; his son was at Columbia, an

1 Ivy League school. USC, fine school, but it's USC, it's not
2 M.I.T. He has no motive to commit fraud.

3 He has this conversation with his trusted counselor
4 who he had known for the guy's help with his son. That's how
5 he gets involved in this.

6 So let me begin where I started this case, all right.
7 He is, in fact, presumed innocent, not just a figure of speech,
8 it's the law. He's presumed innocent. And he actually is
9 innocent in this case. He never agrees with Rick Singer to
11:23 10 bribe anyone at USC, and he never agrees with Rick Singer to
11 defraud USC with some phoney athletic profile that he never
12 saw.

13 And that's what a conspiracy is, an agreement with two
14 or more people to do something illegally. He didn't agree with
15 Singer on that. Of course, we never heard from Singer.

16 The government has failed to meet its burden of proof
17 in this case. They have the burden of proof, not the defense.
18 I don't have to present witnesses; they do.

19 The beyond a reasonable doubt standard is the highest
11:23 20 burden of proof in the law. This is not some civil case where
21 people are fighting about money and it can be more likely than
22 not and people can recover money. This is a criminal case.
23 It's the highest standard in the law. It's not may be guilty,
24 it's not probably guilty. No, no, no. It has to be beyond a
25 reasonable doubt. And they simply haven't proven that in this

1 case.

2 All they've got are these two setup tapes where
3 they're trying to frame the guy well after the fact that his
4 daughter is in school. They don't have him on wiretaps. They
5 have nothing. That's why they're talking about these -- I'll
6 get to the exhibits in a moment and I'll get to the transcripts
7 in a moment. But they're trying to cherry-pick things here and
8 there and make it look like he did something wrong, and he
9 didn't.

11:24 10 They're the ones -- they say Rick Singer is our
11 witness. He's not our witness.

12 They have the burden of proof. You heard from Agents
13 Brown and Keating, Singer was recently here. This case is
14 about choices, and the government chose not to present him.

15 In fact, why don't we just count up the number of
16 government trial witnesses who actually spoke to my client.
17 Okay, let's count them up.

18 How about zero? I mean, what kind of case is this?
19 What kind of prosecution is this, where the government brings
11:25 20 two felony charges against somebody and they don't have one
21 trial witness who met with or spoke with the supposed
22 perpetrator. It's crazy.

23 They have these two little tapes from a guy they don't
24 call to trial.

25 I mean, they spent about -- there are four skilled

1 prosecutors here trying to put Gamal Abdelaziz -- convict him
2 of two crimes and they took the time and resources to locate a
3 high school yearbook. They chose to present a high school
4 yearbook to you on an issue we don't even dispute. We're not
5 saying she was the next coming of Lebron. That's not what he
6 thought.

7 He was asked: "Does she play a sport?"

8 USC has this thing, you can be a practice player, team
9 manager; make a donation, it helps her get in.

11:25 10 There's no guarantee. In fact, that's why I showed
11 you those stipulations from Chapman University and the SAT.

12 Quickly look at those again. Might not have been
13 readily apparent why I was reading those to you the other day.

14 You know, she goes and takes the SAT three different
15 times.

16 In December, he's saying, Oh, they're lying to a
17 counselor about she doesn't want to apply in December. She's
18 still taking the SATs. She took a third SAT. The records of
19 the College Board reflect that she took it three different
11:26 20 times, okay.

21 She also comes back to L.A. They're out in Hong Kong,
22 16 hours away. She flies back to do a tour of Chapman
23 University, also in Southern California; she gets in. Who does
24 that if you think you have a guarantee? There's no guarantee.
25 She gets this likely letter and they still come back, because

1 in his mind there's no guarantee. He's not going to be some
2 crazy man, have his daughter take the SATs again, fly 16 hours.

3 So bear that in mind. But also bear in mind this:

4 It is their burden of proof, and, you know, why don't
5 they call Singer?

6 Throughout this trial those empty chairs have been
7 over there. Those empty chairs signify Singer. There it is.
8 Empty chair.

9 What happens if Singer gets called as a trial witness
11:27 10 by the government? You know what happens. You know what
11 happens.

12 I get to cross-examine him.

13 I get to say to him, Good morning, Mr. Singer, nice of
14 you to join us. Nice of you to take time off from surfing and
15 paddle boarding in Southern California, whatever you do this
16 time of year.

17 We're at a federal trial here. A man's liberty is at
18 stake, so I'm going to ask you a few questions, Mr. Singer.

19 Mr. Singer, you never told Gamal Abdelaziz he had to
11:27 20 bribe someone, did you?

21 You never told Gamal Abdelaziz that he had to submit a
22 phony profile to USC, did you?

23 No.

24 You knew he trusted you, right?

25 You knew that he trusted you because you had helped

1 his son, Adam.

2 And you knew he was an easy mark. He had donated
3 \$200,000 to Columbia. You knew that, Mr. Singer, didn't you?

4 Yeah, yeah.

5 And you told him if he made a donation, it would help
6 his daughter get in. She could be a practice player, she could
7 be a team manager, that's the type of thing you say, right,
8 Mr. Singer?

9 That's your old pitch, donate to the program.

11:28 10 You're not telling this guy, who's flying back and
11 forth to the United States, working 15 hours a day, you're not
12 telling him this is a bribery scheme, this is a nationwide
13 crime I'd like you to join.

14 No, no. You took advantage of him, didn't you,
15 Mr. Singer?

16 You made a lot of money on this deal, didn't you?

17 Yes, I did.

18 Now, of course, they didn't call him. Avoid questions
19 like that. The case would fall apart. It was bad enough as it
11:28 20 was. They bring him in here, he'd get torn apart and he'd be
21 exposed. He'd be exposed to what really happened between him
22 and Gamal.

23 Of course they don't have any interceptions of what
24 really happened in February 2017, that's when they had this
25 discussion, not 18 months later.

1 In fact, let's look at some of these exhibits.

2 I want to show you some exhibits to show his state of
3 mind, Gamal's state of mind. What's going on when he's talking
4 to Singer, because, again, they have to prove that he joined,
5 knowingly joined a conspiracy, the one they charged in this
6 case, not some other situation.

7 If the government can't -- the government has to prove
8 what he did, what he was thinking, his state of mind, nobody
9 else's.

11:29 10 This trial has gone on so long, my eyes have gotten
11 worse; I'm going to use these.

12 So let's go with Exhibit 272.

13 Here it is. Back in February of 2017. They had this
14 discussion. I've attached Sabrina's basketball photos as
15 discussed. He apologized that they're not professional
16 pictures, but you'll recognize Sabrina from an MVP picture.
17 You can use ones you find suitable. Okay.

18 Now, this is not from a man who thinks he's in some
19 scheme. The government doesn't know when he found out that his
11:30 20 daughter wasn't playing hoops anymore. The government doesn't
21 know his daughter's medical history. They don't know a lot of
22 things. They don't know what he did after that second phone
23 call, whether he checked why didn't she show up, she's supposed
24 to be a practice player, she's supposed to be a manager, you
25 got to show up.

1 But here, you can see back in February of 2017, she's
2 getting pictures. Singer asked him, Get me some pictures.

3 Now, what else is going on in Gamal's mind?

4 Well, he thinks it's a legitimate charity. His son
5 had gone on a trip with Singer.

6 Look at picture 1364, Exhibit 1364.

7 This is why somebody like Gamal might actually think
8 it's a legitimate charity.

9 And for Gamal, busy guy, he's proud of his daughter.

11:31 10 When he's asked has she played a sport, yes, yes, she has
11 played a sport, it's called basketball.

12 Look at Exhibit 1168. Okay.

13 As the government helpfully pointed out, I think
14 that's a most valuable player award she won, 10th grade.

15 So when he's having these discussions back in February
16 of 2017, it's not unreasonable for him to say, Yes, she's
17 played a sport in high school, basketball. Get me some
18 pictures. Okay, he gets some pictures.

19 And, as we've stipulated, agreed, look at 9068, or
11:31 20 call it up. It's not in evidence, it's a stipulation. This is
21 by agreement. We all know he donated 200 grand to Columbia.
22 Now, that's a ton of money. Most people give \$100, \$50 if
23 their college asks for money, but he was fortunate to have made
24 it. That can't be held against him.

25 Okay. That's also his mindset. It doesn't seem crazy

1 when Singer says, You got to donate to USC, too. Donated for
2 his son, okay, donate for my daughter.

3 There's no guarantee here. There's no bribery scheme
4 that's explained to him. He doesn't know what's going on in
5 USC's Subco process, some internal process. How is he supposed
6 to know that? He's a guy working all the time, talking to a
7 guy who he thinks is a friend, who he had experience with as a
8 good college counselor.

9 And that's why -- you know, that's his mindset back in
11:32 10 February of 2017. They haven't proven otherwise. Again, they
11 got no wiretaps. They don't even have Singer to tell you what
12 was agreed to. And they have to show what he agreed to with
13 Singer, not somebody else. There's no agreements between him
14 and anybody else.

15 And let's be clear, there's no guilt by association
16 allowed here. You can't just say, Oh, these other parents did
17 something, so he must have done it. No, no. It's what was in
18 his mind, not Bruce Isackson or some New York lawyer that was
19 paying someone to take a test.

11:33 20 There's no test cheating involved with him. There's
21 no class taking involved with him. It's totally separate from
22 what they're talking about, this nationwide conspiracy with
23 mysterious corrupt insiders that he doesn't know anything
24 about.

25 And let's not forget, what did Agent Keating say

1 multiple times, multiple times was the old pitch: It would be
2 a donation to a program. That doesn't sound so bad for a guy
3 like him. Okay, it's a donation to a program.

4 What was he saying? The kids could be practice
5 players or team managers. That's what he said.

6 Look, look at 607. Even on the Isackson tape he's
7 caught -- this is a thing he does, he says practice players,
8 practice players. It's Exhibit 607.

9 And managers. Look at Exhibit 711 (sic.), excerpt.

11:34 10 Exhibit 7011. These are testimonials on his website,
11 kids thanking him for being managers.

12 So that's why -- that's why the agents were desperate
13 to say you have to be more explicit, because what you're
14 telling these people is legitimate. When you're telling a guy
15 like him, it sounds legitimate, so it goes to his intent.

16 He has to have a corrupt intent for a quid pro quo to
17 be illegal.

18 Now, we know that Singer, at some point, he increases
19 his request from 200 grand to 300 grand. Take a look at
11:35 20 Exhibit 448.

21 A little note he writes to himself. "200 is going to
22 USC, the extra hundred is going to The Key, something Gamal, at
23 least from his perspective, thinks is legit.

24 And this is where Singer decides I can get another 100
25 grand out of the guy. Of course he took all 300, unbeknownst

1 to Gamal. Gamal never agreed to donate 300 grand to Singer's
2 pocket.

3 And when Singer tells him it's going to the Galen
4 Center, that's a real place. It's not a made up place. Donna
5 Heinel doesn't control the Galen Center. Some corrupt insider
6 doesn't control the sports arena. It's where they play hoops
7 at USC. It seems legit.

8 So for a guy who is presumed innocent, that's not
9 proof beyond a reasonable doubt that he was involved in some
11:36 10 scheme.

11 And there was another stipulation that I read to you
12 where the parties agreed that nothing was misappropriated from
13 the Galen Center account or the women's athletic board account.
14 I read it to you.

15 This guy from USC, if he had been called to testify,
16 would have said there's no reason to believe there are any
17 expenditures, debits or transfers from the USC women's athletic
18 board account or the USC Galen Center gift account to any USC
19 employee personally for any purpose unrelated to their
11:36 20 employment at USC.

21 Nothing inappropriate, apparently, was done in these
22 accounts.

23 So what is the government talking about? Heinel
24 didn't start taking money until the summer of '18, well after,
25 months after Gamal made his donation.

1 In fact, this whole thing with Heinel is a bit crazy.
2 They've conceded that he doesn't know Heinel, right, and
3 they've conceded that Heinel never took any money personally.

4 Look at Exhibit 1563A. This is a pleading in this
5 case.

6 The government was not attempting to build a case that
7 parents understood Heinel to be personally pocketing money, and
8 the government has never alleged that.

9 Well, good, glad they cleared that up. Sure sounded
11:37 10 like that was their theory at the beginning of this case.

11 How about Exhibit 9025. This is under oath by an FBI
12 agent. She was the case agent. She was someone else they
13 couldn't bother to bring to court. Actually, they brought her
14 to court, she was in the spectator section earlier in the
15 trial, she was in the spectator section for the government's
16 closing, but they don't put her on the stand; no, they put on
17 an agent who had very little to do with the case to read some
18 e-mails. We'll get to that in a moment.

19 Anyway, we got this exhibit into evidence, and it
11:38 20 shows you that Agent Smith, when she's filling out a wiretap
21 application, she told the court, Up until the summer of 2018, I
22 believe that all the money Singer provided to Heinel for her
23 assistance went to USC athletic programs. Okay. Where's the
24 crime?

25 However, in July of 2018, Heinel creates this company

1 called Clear the Clearinghouse and bank records have shown that
2 Singer, not Aziz, has directed \$40,000 to this company in the
3 last two months indicating that Heinel may now, may now be
4 receiving bribe payments.

5 Okay. That is a critical admission. It is something
6 that they are trying to gloss over because it shows Gamal
7 couldn't have been bribing Donna Heinel, who he didn't know, if
8 he wanted to; she wasn't taking bribes until the summer of
9 2018. He has his discussion in February of 2017, doesn't know
10 her. She doesn't go bad, apparently, until the summer of 2018.

11 Now, you know, the government, you know, makes much
12 ado about what's going on at USC. What's he know about the
13 internal workings of USC? We know there was pressure at USC to
14 raise money. They had a \$6 billion fund-raising campaign;
15 that's serious money no matter how you cut it. And we know
16 that the USC athletic director, the guy in charge, was
17 commending Heinel for raising money in 2014 and 2015, her
18 performance reviews. We know that.

19 And we know that Laura Janke told you at USC there
11:39 20 were two ways to keep your job: win or bring in money. Okay.

21 So what USC was telling one another, it's irrelevant
22 to Abdelaziz. Who knows what the real requirement was at USC
23 athletic department. If the USC athletic department is not
24 telling the USC admissions department what is going on, how is
25 he supposed to know? He doesn't know anything about the Subco

1 process or the VIPs at the admissions office, so whatever is
2 happening at USC suggested at least that Heinel was doing --

3 (Court reporter interrupted, technical difficulties.)

4 THE COURT: Okay, Mr. Kelly, you may continue.

5 MR. KELLY: No problem.

6 By the way, the government pointed to one exhibit in
7 their opening -- I'm sorry, in their closing -- Exhibit 330, as
8 if that was in and of itself proof of a crime.

9 Well, if you're going to look at that when you
10 deliberate, look at 329 as well, because that's where Janke
11 wrote that note, If you don't have this, I'll create one. And
12 he gets cut off when he sends 330 to Gamal.

13 So it's just proof Singer cuts it off because he's
14 keeping it from Gamal. He's hiding it from Gamal because Gamal
15 is not on in this little side deal.

16 They talk about side door, side door. No, Singer has
17 a side deal going that he doesn't tell Gamal about. So bear
18 that in mind.

19 If you're going to look at 330, look at it in context
11:43 20 with at 329, what is cut off. He could have forwarded 329 but
21 he doesn't, he doesn't because he knows that Gamal is not a
22 part of this.

23 Now, let's keep talking a little bit about Heinel,
24 okay. This whole Heinel business is really outrageous.
25 They're trying to smear Abdelaziz and frame him for something

1 he didn't do. I don't say that lightly. Look at what goes on
2 here.

3 Singer, at the request of the agents, all right,
4 that's according to him, request of somebody -- look at 721.
5 Okay. We know Heinel goes bad in the summer of '18, according
6 to the government's theory, right? Again, months and months
7 after Gamal made his donation.

8 But that one I've got circled there, November 15th,
9 that's the one where Abdelaziz's name magically appears. This
10 is backdating an invoice, backdating an invoice to set up
11 Gamal. Gamal has got nothing to do with this invoice.

12 Let's look at the next exhibit, 596A. Okay. That's
13 where the name appears. Singer, Heinel -- who knows who's
14 behind it, but that's not anything Gamal had anything to do
15 with it. It's made to look -- it's designed to make him look
16 guilty of something he didn't do. That right there, they're
17 backdating an invoice, sticking on Gamal Abdelaziz's name to
18 make it look like he did something, okay.

19 Because we know, we know at this trial -- look at the
11:44 20 date here, it's November 1st of 2018. We know from this trial
21 that the day before, Halloween, Singer had told the agents that
22 Gamal didn't even know Donna Heinel. We know that from the
23 testimony in the case. There's multiple times where Agent
24 Keating said that in the transcript.

25 Let's go to that, please.

1 So here's some testimony.

2 All right.

3 "How about Donna Heinel? You have no evidence that he
4 ever knew of Heinel before those two calls either, do you?

5 "A. Mr. Singer told us at some point that
6 Mr. Abdelaziz did not know the name Donna Heinel.

7 Question to Keating: "Yeah isn't there a report of
8 one of your first meetings with Singer where Singer said Gamal
9 and his wife thought their money with respect to Sabrina was
11:45 10 going to the school?

11 "A. I don't remember if it was one of the first
12 reports, but I remember Mr. Singer saying that the payment was
13 going to USC.

14 "Q. The school, correct?

15 "A. Yes.

16 "Q. But then when -- you also remember Singer told
17 you Gamal didn't know who Donna Heinel was, correct?

18 "A. Correct."

19 "Well, he didn't know who Donna Heinel was, that's
11:46 20 correct, right?"

21 "We didn't find out until after the call."

22 Remember, the call is on October 25th, 25th.

23 "When you made that call, you knew for sure he had
24 never heard of Donna Heinel, right?

25 "No, Mr. Singer didn't tell us until after the call.

1 So he's injecting this name, all this gibberish onto
2 that first call, Abdelaziz doesn't even know who she is.

3 "Okay, okay. After the call, like six days later" --
4 six days later, Halloween, 2018 -- "he doesn't know who Donna
5 Heinel was, correct?

6 "Correct."

7 And yet, on November 1st, they're throwing the
8 Abdelaziz name onto that invoice. How is that fair? How is
9 that proof of anything beyond a reasonable doubt except that
11:46 10 they're desperate to set up this guy, Gamal. That's what
11 they're doing here.

12 In fact, look at Exhibits 13 and 714 side by side.
13 Okay. They're basically the same thing. This is the Singer
14 note, whether it's to himself like it's a diary or it's to his
15 lawyer, I guess the theory he's lying to himself or he's lying
16 to his lawyer, who cares? What it shows is that it shows
17 Singer's state of mind. It shows he's saying, Spoke to Donna
18 Heinel.

19 Look at this -- I'm pointing to the bottom -- as
11:47 20 requested by agents, asked her to put detail on her 20K
21 invoices being sent to the Foundation.

22 They concoct this little side deal to set up Gamal,
23 and they stick Gamal Abdelaziz's name on an invoice. He's got
24 nothing to do with it. They're backdating the invoice to frame
25 him, okay?

1 And then you have up above on the same note -- this is
2 a very important note, whether you look at 13 or 714 in the
3 jury room when you deliberate, this is like the little decoding
4 device, the top one. This is how you look at what he's doing
5 when he made those two calls to Gamal, because, in Singer's
6 mind, look what he says.

7 He says -- he claims he had a loud and abrasive call
8 with agents. They continue to ask me to tell a fib and not
9 restate what I told my clients as to where their money was
11:48 10 going, to the program, not the coach, and that it was a
11 donation, and they wanted it to be a payment because it makes
12 it look like something illegal.

13 I asked for a script if they want me to ask questions
14 and retrieve questions that are not accurate to the way I
15 should be asking the questions.

16 Essentially, they're asking me to bend the truth,
17 which is what they asked me not to do when working with the
18 agents and Eric Rosen.

19 Liz raised her voice to me like she did in the hotel
11:48 20 room this time about asking each person to agree to a lie I was
21 telling them.

22 This is his mindset. What he's telling Gamal is all
23 nonsense, and he's trying to frame him and set him up.

24 So the government goes back to those two tapes, but of
25 course they only show you a little bit, they cherry-pick. You

1 guys can listen to the whole thing.

2 That first tape is October 25th of 2018. He's in --
3 Gamal hasn't heard from Singer in months. His daughter is
4 already at USC where, apparently, she's doing quite well,
5 getting As and she's due to graduate in the spring.

6 So he gets called out of the blue and there's a lot of
7 talk initially about general chitchat two friends or a trusted
8 adviser would have. This is all about Adam. He's concerned
9 about his son, Adam, and some of the difficulties he's had.

11:49 10 And he references Columbia. Again, Singer knows this guy gave
11 a lot of money to Columbia.

12 Gamal goes back and forth, how he's too busy in China,
13 he just landed in China, didn't even have time to discuss
14 things with his own son about some business proposition.

15 But that's the context of this quick call out of the
16 blue to Gamal. Right?

17 And then, what does he do? Singer tells him this
18 audit thing. Oh, my foundation is being audited.

19 Now, Gamal doesn't panic. His heart isn't dropping
11:50 20 like Mr. Isackson. He yeses him to death, yes, yes, yes, yes.
21 There's a series of questions. Listen to it in there.

22 My foundation, we're getting audited right now. Yes.

23 It's typical, they're looking at all my payments.

24 Yes.

25 They've come into my foundation, they asked me about

1 the \$300,000 payment. Yes, that was made, yes.

2 Okay. He's not driving off the road because Singer's
3 foundation is getting audited. He's worried about his friend.
4 Is his friend in trouble with the IRS?

5 Then Singer drops this nonsense statement into the
6 record. You can listen that, too. There's a pause. He's
7 like, what is he talking about?

8 Then he says, You're okay with me not telling that to
9 the IRS. Of course.

11:50 10 Of course because it makes no sense. He's never heard
11 of this woman; he doesn't know what he's talking about. Why
12 would he say that to the IRS? If Singer is being audited, it
13 does make no sense.

14 And then they go back to the Foundation. His intent
15 was to donate to the Foundation obviously.

16 And from there, from there obviously USC.

17 But, apparently, Singer's in trouble for -- he wants
18 to claim the whole 300. Singer is getting audited.

19 So, okay. So if Singer is in trouble, you know -- for
11:51 20 Gamal it's a 300,000 donation either way. They're both
21 501(c)(3)s. If they're split up, it's a donation. So that's
22 the context of this conversation.

23 He says -- Gamal says to him, Is there anything I can
24 do to help? He doesn't think he's in trouble for anything.

25 So -- and he's not charged with any tax crimes.

1 So this tax business is just a nonsense rouse, as they
2 say, or trick, to try to get him to say something that doesn't
3 make sense.

4 Then Singer goes back to Donna Heinel, gives her a
5 title because he's never heard of her.

6 And then he says they ran a fire alarm. It's a very
7 confusing message.

8 In the middle.

9 Well, she called him, Singer, to compliment him on the
11:51 10 profile he did for Sabrina. So he's fishing for a compliment
11 from his client, Gamal.

12 He says, I love it. He does say I love it a thousand
13 times a day, ten times a day, whatever it may be.

14 So this is not proof beyond a reasonable doubt of
15 anything. He goes back to his son again.

16 You know why it's not proof beyond a reasonable doubt,
17 they have to go back two-and-a-half months later.

18 Gamal doesn't call Singer, but the government was
19 desperate to get some evidence; they don't have it. So they
11:52 20 get back with this new -- this second call in January of 2019.
21 Again, Sabrina is already in school, it's well after the fact.
22 As a matter of law, you cannot conspire with a government
23 agent. At this time he's a government agent. So the
24 government is saying, Well, this is not the conspiracy, it's
25 evidence of a past conspiracy.

1 Well, here, they do panic him a little bit. They tell
2 him his daughter's in trouble, that the admission's person
3 called. But, again, they first start talking about Adam, it's
4 always about Adam. That's the focus. Listen to the whole
5 thing.

6 Again, a second call out of the blue.

7 And what happens? He's worried and distracted about
8 his daughter. He starts -- and Singer starts dropping side
9 door, side door into it, because, apparently, they think that's
10 per se illegal, some magic phrase. It's not. He never heard
11 it before; there's no evidence he had.

12 So he gets worried when they talk about why are they
13 asking her to show up? He doesn't say -- you know, Mr. Frank
14 suggested all these things he could have said. He didn't say,
15 Wait a minute, he thinks she has to show up. He thinks she has
16 to be a practice player or team manager and to do that you got
17 to show up. So why is he worried? She didn't show up.

18 If he thought he bribed USC, why would she have to
19 show up? Why doesn't he say, What are you talking about? This
11:53 20 was a big scam, Rick. Because in his mind it's not, he thinks
21 it's legit; he thinks his daughter is in trouble.

22 And the government doesn't show what Gamal did after
23 this call, what investigation he made because he thought she
24 had to show up. They haven't presented evidence like that.

25 And so that's why these two tapes don't do it for

1 them.

2 So they start talking about these e-mails that mean
3 nothing.

4 Let's go through some of these e-mails.

5 First e-mail is Exhibit 334. Okay. This is Singer in
6 July telling Gamal, I need an action photo or two of Sabrina
7 playing basketball. He says, Got it. All right, that's on
8 July 27th.

9 Then there are five e-mails in a row. Okay. One 338,
11:54 10 339, 340, 341, 342.

11 Take a look at those. There are five pictures in two
12 minutes.

13 So he's just flipping pictures to the guy. Right?

14 And then they think -- the government thinks they have
15 their big moment, Exhibit 345.

16 Let's see the actual 345, please.

17 It's a blank page. Look at the top. The whole thing
18 is blank.

19 Singer: We'll use this one.

11:54 20 Gamal doesn't reply.

21 There's no picture attached to this one.

22 He doesn't say, Wow, that's a beautiful picture of my
23 daughter, what a smile.

24 There's nothing there. It's just this JPEG that the
25 agent talked about.

1 No one memorizes JPEG numbers. It's crazy.

2 You flip through five pictures. Singer says, We'll
3 use this one because the girls happens to be dribbling the
4 ball.

5 She's got glasses on; it's not even his kid. But he's
6 not looking at JPEG numbers and have them memorized.

7 So they're trying to suggest this is somehow sinister;
8 it's not.

9 In fact, what happens a little while later, Exhibit
11:55 10 549. Gamal sends him a whole bunch of pictures from Hong Kong,
11 about a month later. Amateur photos a parent would take of a
12 kid playing hoops. There's no intent to give phony pictures of
13 someone else playing basketball.

14 Singer chose a girl with glasses. He didn't say, Use
15 somebody different.

16 And look what happens -- so look what happened at
17 Subco. Exhibit 381.

18 They use a different girl altogether. So it's not
19 even material, it doesn't even matter the girl with glasses.

11:56 20 It's all smoke and mirrors. They're trying to
21 buttress a weak case. They know these two setup calls don't do
22 it, so they're trying to suggest this e-mail stuff matters.

23 Look on this thing that went to Subco, the e-mail and
24 the phone, those are her dad's. They're not hers. When Janke
25 asked for the daughter's e-mail and phone, Singer never got it

1 because he never talked to Gamal about it.

2 That's what leads us to the big e-mail with the
3 athletic profile. It's the key to the government's fraud part.

4 Let's go to 352.

5 This is the whole ball game for the government, and
6 they've botched it badly, and here's why.

7 Look at Exhibit 352. It's on August 8th. This is
8 from Janke to Singer.

9 See, look below. They're looking for Sabrina's
11:57 10 e-mail, phone; as you just saw, they never got it.

11 It goes to Singer, sends it to Gamal at the cox.net
12 address. Okay? Remember that. It goes to the cox.net
13 address.

14 But then, there were two more e-mails, two more that
15 the government chose not to show the FBI agent.

16 The FBI agent takes the stand. They hide it from him.
17 Because if they hide it from him, you're not going to see it
18 either.

19 Here's the other two -- so all they show the FBI agent
11:57 20 is this one, okay? There are two more you have to look at in
21 context.

22 And the poor FBI agent. He's caught unaware. He's on
23 the witness stand. He hasn't been shown this by the
24 government. The defense lawyer has got to show it to him.
25 It's nuts.

1 So look at this. 9024 is the away message or the
2 bounce back I was calling it.

3 But it says, Please be advised I've changed my e-mail
4 address to gamalaziz797. So that's up top there. That's the
5 auto reply from cox.net, that's what Singer gets.

6 So what does Singer try to do? He tries to send it to
7 the new e-mail address, gamalaziz797. But he doesn't. He
8 makes a typo.

9 Look below at Exhibit 351 there. "Amalaziz."

11:58 10 It's to nowhere. It's to cyberspace. No one gets it.
11 Gamal doesn't get it. They don't show that to the
12 FBI.

13 If they show that to the FBI, he might have to
14 testify.

15 I brought it out on cross-examination: Why are they
16 hiding this from you? Let me just tell you what really
17 happened. No, because they've got a weak case, and they're
18 trying to dress it up with this e-mail from August 8th.

19 In fact, here's what they say to you:

11:58 20 They say, Oh, but we did a search warrant.

21 So what? They did a search warrant in July 2019,
22 almost two years after that thing was sent. And the only thing
23 the government can say with any certainty about that cox.net
24 e-mail is that they found it in the Gmail two years later, July
25 2019.

1 They don't have any proof that Gamal ever replied to
2 it. They don't have any proof that he ever opened it, and they
3 don't have any proof that he replied.

4 In fact, I'll show you what Agent Brown said.

5 All he testified to is:

6 "The only thing you know is that on July 1st of 2019,
7 the FBI served a search warrant and Google reported as of July
8 2019 there was this e-mail in Gmail.

9 "But you don't know how it got there, right?

11:59 10 "That's a fair statement, right.

11 "Right."

12 Even the FBI could draw no conclusions, and they want
13 you, a jury, to draw conclusions.

14 The agent, Agent Brown, he said he consulted with the
15 FBI forensics team. That's probably the best in the world.
16 They can't figure it out.

17 How does the government expect you to convict a man
18 beyond a reasonable doubt based upon this supposed fraud?

19 It never got to him.

12:00 20 They want to you speculate and convict this man for a
21 fraud, even though the FBI can't draw any conclusions. It's
22 crazy.

23 I mean, they have guesses.

24 You know what, here's a guess, too. How about when a
25 man gets indicted in March of 2019, months -- several months

1 before the search warrant, he checks all his devices. I bet he
2 checks all his e-mail addresses and then things migrate into
3 your Gmail account.

4 How about that for a guess? That's probably a pretty
5 good guess.

6 But you shouldn't be out here guessing. The
7 government wants you to guess -- first they don't show it to
8 you, then they want you to guess.

9 Look at excerpt to what Agent Brown said.

12:00 10 I asked him:

11 "You have no idea how that ended up in his Gmail, do
12 you?

13 "We have thoughts on how it could have, but I do not
14 know with certainty how it did, no.

15 "Right. A lot of different thoughts or ideas but no
16 certainty, correct?

17 "Discussed two possibilities with our forensics team,
18 but they're just possibilities, I don't know for sure.

19 "Right. No conclusions have been drawn, right?

12:01 20 "Correct.

21 "There's no evidence he ever replied to this, right?

22 "No.

23 "And there's no evidence that he's ever forwarded
24 this, right?

25 "Not that I've seen, no.

1 "Okay. There's no evidence that he ever posed the
2 attachment to this, is there?

3 "No."

4 By the way, do you remember that little question the
5 government asked of him: Do you know what auto forwarding is?

6 And I objected.

7 He said, Oh, I withdraw that question.

8 Why was he asking that question if there's no evidence
9 he ever forwarded? Why is he trying to mislead the jury in
10 this case? Because their case is weak, and he didn't do the
11 crimes he's charged with.

12 There's no fraud here.

13 So let's not forget who's got the burden of proof
14 here. Not me; they do.

15 They chose not to call Singer as a trial witness.
16 They chose not to call the FBI agent, the case agent who was
17 here as a spectator.

18 They chose not to call any of them from the athletic
19 department except two coaches who don't know anything about
12:01 20 fund-raising.

21 They didn't call anyone from the Trojan Athletic Fund
22 either, which raises money for USC.

23 And they hid evidence from Agent Brown in an effort to
24 hide it from you.

25 But that's not all. That's not all.

1 They also hid evidence from that Mikaela Sanford in an
2 effort to keep that from you. That's also part of the side
3 deal they wanted to keep from you.

4 Let's walk through that. Remember that little fiasco
5 with Ms. Sanford? She spent 15 hours prepping with the
6 government. We didn't get 15 seconds; they had 15 hours.
7 Okay.

8 And at first on direct exam she appeared to have an
9 answer for every question about every e-mail, spitting out
12:02 10 those answers. Very well prepared. Fifteen hours will do
11 that. Okay.

12 Then there was this one little line on one e-mail.
13 Quick question, quick answer: "That I don't remember." Mmm.
14 That's when the red flags go off, when the government witness
15 who's been with them for 15 hours says, "That I don't
16 remember."

17 That's Exhibit 458.

18 That little line in the e-mail: "I have to confirm a
19 few things with Rick before I can submit."

12:03 20 Prosecutor asked: Let's look at the response to the
21 next e-mail.

22 You wrote, "I have to confirm a few things with Rick
23 before I can submit."

24 I'm sorry, he asked:

25 "What were you confirming?"

1 "A. That I don't remember."

2 Okay. Well, people have failures of memory, but their
3 memories can be refreshed, as you've seen in this trial.

4 You can show them the relevant e-mails, how about
5 that? How about being refreshed in memory in 15 hours.

6 No, no, they didn't do it.

7 She told you, I've been consistent with my position in
8 court and with the government, I don't remember.

9 So they choose not to refresh her memory.

12:03 10 But guess what? What was going on on the side that
11 Gamal did not know about?

12 Well, let's take a look. Okay.

13 Let's look at 1540. This is a side e-mail that
14 Sanford doesn't remember; it wasn't shown her.

15 From her to Singer. "Please send profile for Sabrina
16 Aziz."

17 Okay. She forgot about that.

18 Let's go to 1254.

19 Singer flips to her, Mikaela, without Gamal being
12:04 20 present, the August 7th profile. He still hasn't got a new
21 one, it's the same one, it's off in cyberspace, that he sent to
22 Gamal months ago.

23 So here we are in January. Singer to Mikaela, no
24 Gamal.

25 He's sending it to Mikaela.

1 What does she do? Does she send it to Gamal to make
2 him check for accuracy before it gets submitted to USC?

3 Negative.

4 What happens is 1255. Boom.

5 Sanford says, "Thanks, will update her app and
6 submit."

7 She's going to update the app with the phony
8 information.

9 Not Gamal. Gamal is not on this chain.

12:05 10 Why did they cut him out. If he's involved in some
11 nationwide conspiracy, why not just include him?

12 You know why. This is a side deal Singer has with his
13 people; this is the way they make money. Gamal has been
14 suckered. He doesn't know this is going on.

15 Look at the next exhibit. The receipt goes right back
16 to Mikaela. She's the one who did that, not Gamal.

17 And so this is another example of how Singer is
18 exploiting both Gamal in this whole process at USC, this crazy
19 Subco process that Gamal has nothing to do with.

12:05 20 Now, in this case -- let me reference a couple more
21 points here.

22 You know, remember, the proof that Mr. Abdelaziz
23 joined a nationwide conspiracy must be based on evidence of his
24 words and actions, not somebody else, not all these other
25 characters they're talking about; it's got to be him. It's an

1 individual specific. He doesn't know anyone else in this case.
2 You've got to judge him alone. All they got are these two
3 flimsy setup tapes, which they effectively concede are not
4 enough because they're trying to pepper you with this e-mail
5 nonsense, this photo nonsense, stuff that goes into cyberspace
6 that he doesn't see, side deals that is being cut with Sabrina.
7 And they keep talking about quid pro quos.

8 Again, a quid pro quo is not illegal in and of itself.
9 There has to be corrupt intent in Gamal's skull. And you have
10 to determine if the facts establish that, if there's anything
11 in these e-mails that suggest he's guilty of anything except
12 being a sucker for a guy who is an excellent con man. Okay.
13 And a guy he trusted and who he thought had a legit charity who
14 helped his own son, a guy who is over there in the empty chair
15 who never bothers to show up as a government trial witness,
16 never gives us a chance at cross-examining him.

17 So I urge you on those two transcripts, don't just
18 cherry-pick the one section they want you to listen, listen to
19 the whole thing. This guy is caught off guard out of the blue
12:07 20 by a con man who is injecting all sorts of gibberish on this
21 phone call. There's not multiple wiretaps. They have those
22 two narrow setup calls.

23 These two charges have been hanging over
24 Mr. Abdelaziz's head like the sword of Damocles for too long
25 here.

1 They don't have the evidence to prove him guilty of
2 these two charges.

3 He did not agree to do anything illegal with Rick
4 Singer.

5 He did not agree to bribe anyone at USC.

6 He did not agree to defraud anyone at USC with some
7 phony baloney athletic profile that he never saw and that he
8 never put together.

9 You're the jury. You're the only thing that stands in
12:08 10 between the government, who is trying to convict a citizen
11 based upon flimsy evidence like this. Don't let them do it.
12 Don't let Rick Singer in the empty chair fool you, too.

13 The evidence is not there. They have not met their
14 burden of proof. It's their burden, highest burden in the law.
15 Again, not some civil case, not a may be guilty. This has to
16 be definite, and there's no evidence to suggest he's part of
17 these two nationwide conspiracies.

18 I'm running out of time here, but a couple more points
19 that the Court, not me, will instruct you on the law. Because
12:08 20 I think I said from the outset, the reasonable doubt can arise
21 from a lack of evidence, not just the evidence you've seen, but
22 the evidence -- a lack of evidence as well.

23 A defendant is never to be convicted on suspicion or
24 conjecture alone, and that's what we have here. Proof that a
25 defendant like Abdelaziz willfully joined in a criminal

1 agreement must be based upon evidence of his own words and
2 actions, not someone else.

3 And there's two words you need to listen to when the
4 judge gives you these instructions. Those two words are "good
5 faith." Because those two words, "good faith," lead to even
6 two better words, "not guilty." Because if somebody has good
7 faith, if they act in good faith, that's a defense to the
8 charge, because that's in their mind, they think it's legit.
9 That's -- a good faith defense is a defense to the two
10 conspiracy charges. Because my client, Mr. Abdelaziz, had no
11 specific intent to do anything wrong. He just didn't. He was
12 presumed innocent, and he is innocent.

13 I ask you to be fair when you consider the evidence,
14 consider the exhibits that you have seen, there's a lot of
15 them, take a look at the ones I've pointed to. I appreciate
16 it, and thank you for your time serving on this jury and your
17 attention.

18 Appreciate it very much.

19 THE COURT: All right. For the defendant Wilson,
12:10 20 Mr. Kendall may make his closing arguments.

21 MR. KENDALL: Your Honor, just to confirm, I believe
22 Mr. Kelly has given me a small gift.

23 THE COURT: Yes.

24 MR. KENDALL: About six minutes.

25 THE COURT: About that, yes.

1 MR. KENDALL: Thank you.

2 (Pause.)

3 MR. KENDALL: Good afternoon. On behalf of John
4 Wilson, his family and his legal team, I want to thank you for
5 your jury service and your patience.

6 The first thing I want to do is, as I did with my
7 opening, not go with my remarks, I want to call up -- if we
8 could have the Chassin exhibit, please.

9 Mr. Frank gave this whole speech, quid pro quo, as if
12:11 10 it were some terrible, horrible thing, a quid pro quo. It's
11 this for that.

12 Every government employee in this room is here on a
13 quid pro quo. They give their time, and they get paid for it.
14 You got a cup of coffee this morning, it was a quid pro quo.
15 You paid for parking, it is a quid pro quo. A this for that by
16 itself is not a legal problem for my client.

17 That's why I ask you to look at Ms. Chassin's
18 testimony.

19 If you recall, she doesn't work for the athletic
12:12 20 department, but they brought her in to talk about what was the
21 obligation that the coaches would owe, though she never spoke
22 to the coaches, she never spoke to Pat Haden, she didn't know
23 what Pat Haden discussed with Tim Brunold about the VIP list
24 and how all the donors' kids were handled. She knows zero on
25 that topic.

1 But what did she testify:

2 "Q. Are you aware of any rules that restrict when a
3 coach can consider when submitting a walk-on candidate to SUBCO
4 back in 2014?

5 "A. There are no rules.

6 "Q. There is nothing that prohibits Coach Vavic from
7 taking into consideration will the parents donate. If they
8 want to factor that in, like every school does when they're
9 raising money, there's nothing against that."

12:12 10 And what is her response on the VIP questions?

11 "A. Many of the students are on there because of the
12 hope that they will, you know, contribute to the university
13 financially. Some are not there for that reason."

14 You know most of the VIPs are there for money and it's
15 taken into consideration.

16 So the mere fact that Mr. Frank likes to use those
17 sort of sinister terms, a quid pro quo, and imply there's
18 something wrong with it, that's not the law. That's not the
19 facts.

12:13 20 And as he referred to, that's not your common sense in
21 life.

22 So after hearing this case, I think you can see why
23 trial by jury is so fundamental to our legal system and to our
24 freedom in this country.

25 The agents and prosecutors can pick and choose who to

1 indict. They can use informants to manipulate taped
2 conversations. They can sanitize their reports to hide
3 exculpatory evidence. But it's the jury, it's you, who decide
4 if they've truly proven their case beyond a reasonable doubt,
5 whether the evidence is so strong that it excludes all
6 reasonable doubt, a doubt based upon reason, a doubt based upon
7 evidence, a doubt based upon common sense.

8 This burden is particularly important here because, as
9 we'll see, the government picked so many of its witnesses based
10 upon what the witness did not know. Chassin had no idea what
11 Brunold and Haden discussed about fund-raising. She has no
12 idea about the athletic department rules on coaches'
13 recruitment and fund-raising. We'll get to Casey Moon, him not
14 knowing virtually anything, or at least claiming he didn't
15 know.

16 The prosecutors and agents took one of the most
17 deceptive con men in the country and they let him spend three
18 months on recorded calls and unsupervised texts telling John
19 the side door was a way to make donations that the school
20 presidents approved and he better be careful because if the
21 development office has heard he made a side door donation,
22 they'd be after him for even more money. As if we're supposed
23 to believe you're getting a bribe, you're involved in bribes
24 and then the development office will want more money from you.
25 That wasn't John's attitude, and that wasn't his understanding.

1 There is no proof that John ever said false things to
2 any school, only Rick Singer did.

3 The government's case is riddled with contradictions.
4 Even though the evidence shows that Singer repeatedly conned
5 John, made him believe he was running a national side door
6 business and stole his money, the government nevertheless
7 contends that John twice agreed to bribe college officials.
8 John is not part of Singer's con. There is no evidence, not
9 even a hint, that John figured out Singer's scam. The truth is
12:15 10 quite simple. John is Singer's victim not once but twice.

11 What the government claims is that Mr. Singer fooled
12 bankers, businessmen, universities, accountants, the IRS, the
13 FBI, lawyers, even prosecutors, but somehow John figured it out
14 before any of these other people did.

15 You heard from Agent Keating about how the government
16 trusted Singer. They let him keep his phone so he could delete
17 1,300 text messages. And you heard from Jeff DeMaio, a
18 sophisticated and honorable financial adviser, about how he
19 trusted Singer, too.

12:16 20 As you review the evidence, I suggest you do two
21 things: First, as you discuss it in the jury room, start with
22 the facts that are not in dispute. Take an inventory of things
23 that everybody agrees upon and use that undisputed set of facts
24 as your foundation to make decisions on more disputed issues.

25 And then, second, look at the evidence from John

1 Wilson's perspective. Before you judge him, you have to look
2 at things as he saw them. All of the charges require that the
3 government prove beyond any reasonable doubt that John intended
4 to commit fraud and bribery, that he acted knowing he was
5 committing a crime so you must look at things the way he did.
6 Pay particular attention to what John said, not what Singer
7 said, but what did John say.

8 Good faith is a complete defense to every one of these
9 charges. Rick Singer manipulated and deceived John Wilson for
10 eight years. You may think John was naive, even foolish to
11 believe Rick Singer's claims that the presidents of Harvard and
12 Tufts and Brown all endorsed his national side door business
13 and that they were even working with him on it and that the
14 side door had grown to 50 schools across the country with over
15 700 donations and 700 families a year.

16 But if John Wilson believed the stories Mr. Singer
17 told him, and he clearly did, that proves he acted in good
18 faith and you must find him not guilty on every charge.

19 One undisputed fact is that Mr. Singer was a highly
12:18 20 successful college adviser. Lots of honest people hired him.

21 A second undisputed fact is that when Johnny applied
22 to USC, Mr. Singer always told John that John would be making a
23 legal donation to a university program.

24 Remember Exhibit 13, Mr. Singer's notes that Mr. Kelly
25 just showed you? Remember what Agent Keating told us on

1 cross-examination? This was told to the agents repeatedly by
2 Mr. Singer, that the parents, including John Wilson, did not
3 intend to make bribes, were not told they were making bribes,
4 they thought they were making donations. But the agents
5 refused to write it down in their reports. They made no
6 written record of it. You may remember the cross-examination.

7 "Q. In fact, to quote your direct -- your
8 declaration, he said that he usually told clients that the
9 money was a donation to an athletic program?

12:18 10 "A. Correct.

11 "Q. Not once did any agent write in a report that
12 Mr. Singer said he didn't tell the parents it was a bribe, he
13 always told them it was a donation?

14 "A. I don't recall that specific statement written
15 down.

16 "Q. Not once in hundreds of pages of interview
17 reports, correct?

18 "A. Correct."

19 John Wilson never bribed anyone. As much as they kept
12:19 20 it out of their reports, as much as they didn't write it down,
21 there is no evidence Mr. Wilson paid money personally to a
22 coach or knew money was being paid into any coach's pocket.

23 If he made a donation to USC where there was no rule
24 prohibiting a parent of an applicant to make a donation, that's
25 not an illegal quid pro quo. It may be a legal quid pro quo,

1 but not an illegal one.

2 And remember what they put in the Keating affidavit
3 talking about what they wanted Singer to do: "We wanted him to
4 be explicit," and that's the word, "explicit," without any
5 doubt, without any ambiguity, without anything hidden, without
6 anything disguised. "We wanted him to be explicit that the
7 scheme involved bribes. The purpose was to ensure" -- remember
8 the dictionary definition -- "ensure" means to guarantee -- "we
9 wanted him to be explicit and guarantee for clients who had not
10 yet committed a crime or were still in the middle of it there
11 would be no possible confusion about their intent."

12 That is not the way they made the tapes with John
13 Wilson. What Mr. Singer said to John is wholly different from
14 what he said to other parents. They played the Janavs tapes
15 for you, they played the Isackson stuff. Mr. Singer never
16 talked to Mr. Wilson that way. He talked to them in a
17 qualitatively different way.

18 And why is that? Because, as he told the government,
19 Mr. Wilson always thought he was making a donation to a program
12:20 20 that is undisputed, that's what Keating testified, and his son
21 was a real water polo player who played.

22 So the prosecutors and agents let Mr. Singer
23 repeatedly tell John the side door was legitimate. They never
24 gave John a fair chance. All they had to do was one time, just
25 one time all they had to say is, "John, send the money ASAP.

1 The coach needs to pay his mortgage." All they had to say to
2 John was, "We need head shots of your daughters so we can make
3 a false sports profile for your daughters. Is that okay?"

4 Three-and-a-half months, dozens and dozens of
5 electronic communications, close to 60 minutes of phone calls,
6 they wouldn't ask that question once. That's the way they
7 spoke to Gordon Kaplan, Nazie Saffari, Bruce Isackson, and so
8 many others. But they wouldn't dare talk to John that way.

9 They had one of the world's greatest con men working
10 under their control. They could have scripted Mr. Singer's
11 comments any way they wanted. The prosecutors and agents never
12 had Mr. Singer ask John Wilson those explicit questions because
13 they were afraid of the answer. They were afraid that John
14 would say, No. And so was Mr. Singer. He knew John had never
15 put a cent in a coach's pocket, and he knew John would never
16 agree to do that.

17 That's why I want to call your attention to -- look
18 how much they played tapes of and they talk about people that
19 John never met, that John never agreed to do anything with,
12:22 20 that did cheating on tests and other things that John never
21 did. Why are they bringing in Janavs, and Isackson.

22 Isackson, isn't he a creep? A rich, arrogant guy who
23 gets caught and then does anything the government wants him to
24 do to try to keep himself and his wife out of jail.

25 With that as a context for my remarks, I'd now like to

1 review the evidence in this case in three sections.

2 First, Johnny's application to USC and John's
3 eight-year relationship with Mr. Singer as a trusted family
4 advisor.

5 Second, John's 2014 tax return.

6 And third, the 2018 tape recordings and other
7 communications.

8 You heard from Jeff DeMaio how John had a great
9 relationship with Ayco, the Goldman Sachs company. It's a
10 world renowned tax adviser. It's a place known for integrity,
11 for quality, for conservatism, the type of place you can rely
12 on and have security in what they do.

13 They provide teams to help high-level executives
14 manage their overscheduled lives.

15 Mr. DeMaio worked on the will and trust where John set
16 up \$5 million to go to scholarships for kids at Rensselaer and
17 Harvard whose parents did not go to college, who wanted to
18 study science and math and who had a B average, people that
19 John identified with.

12:23 20 And in addition to setting up this \$5 million worth of
21 trust, you heard how he discussed a college counselor with him
22 and Jeff DeMaio recommended Rick Singer because he was one of
23 the best in California.

24 This is the guy that advised Steve Jobs, the founder
25 of Apple; Joe Montana, the Hall of Fame quarterback; various

1 executives at Disney; Under Armour; PIMCO, and many of the most
2 respected businesses in the country.

3 No one was looking for a shortcut when they introduced
4 John to Rick Singer.

5 And Rick Singer did a great job for the family for
6 three years. The tutors worked with Johnny and he got a 29 on
7 the ACT, which puts him right in the middle 50 percent for
8 non-athletes being admitted to USC. His board scores were good
9 enough without any athletic consideration for admission to USC.

10 His grades were from a school that was very tough and
11 he took a lot of AP courses, so his grades were treated as like
12 a 3.87 because of the rigor of the classes he took.

13 You'll recall John e-mailed Mr. Singer twice about the
14 ACT scores, and you see from the tapes, John is very fixated on
15 the kids' scores, their tutoring, what numbers they're getting,
16 what the schools expect.

17 And then John goes to Amsterdam in 2012 to work in
18 Europe, and he leaves Johnny behind. And Johnny is there after
19 the wife and daughters leave living with friends.

20 What does he do? He asks Rick Singer to check in on
21 him, to go visit him, to see how he's doing, to keep him on
22 track with school, to keep him on track with practice.

23 Do you ask a con man, a fraudster, somebody you know
24 is a cheat, to check in on your child, the most precious thing
25 in your life, or do you ask somebody you trust, you respect to

1 do that work, not somebody who is running a major national
2 criminal enterprise.

3 In 2014, USC was taking a large class of red shirt
4 walk-ons for its water polo team. A lot of athletes had
5 graduated and several had quit after the death of a teammate.
6 They recruited over 20 candidates and 13 were red shirts. Most
7 were like Andrew Mericle and Johnny, red shirts who had talent
8 but needed time to develop.

9 Remember what Rebecca Chassin said: The Subco
10 deferred to the coaches to pick who they wanted to bring in.
11 The Subco mainly was concerned about academic issues. Johnny
12 was number three in the Subco class for water polo, academics
13 were not an issue.

14 And so what did the government do? They called Casey
15 Moon. But let's look at what Casey Moon had to say compared to
16 Johnny's high school coach.

17 Casey Moon gave the list of issues that they looked
18 for, and what did Bowen say? Bowen was probably the most
19 scrupulously honest witness you had in this whole trial. You
12:26 20 saw how careful he was, how thoughtful he was. He didn't want
21 to overstate anything. He's a grinder with an A-plus speed.
22 If there's one characteristic that's going to catch a water
23 polo coach's eye, if a candidate has A-plus speed and a great
24 work ethic, that's someone worth having as a red shirt on the
25 team to see if you can develop.

1 Johnny wasn't as fast as James Walters, but he was
2 close, and a kid with that speed, with that unassuming grinding
3 work ethic of doing what the coach told him and never
4 complaining is a reasonable person to apply to USC. Bowen, one
5 of the best high school coaches in the country, supported the
6 application and thought he'd fit in with the team.

7 What did Moon say? He doesn't remember him. He
8 thought he had quit the team. After the first day, he knew
9 nothing about that. Sounds like Moon was well prepared by the
10 USC lawyers.

11 But what did you hear from Mr. Mericle and what did
12 you hear from Mr. Walters? He came, he practiced, he was fast,
13 he kept up with the team. He got a concussion outside of
14 practice, and he still came to practice and tried to swim, and
15 he got so sick they had to take him to the hospital. And
16 Walters remembers it because he cleaned up the vomit in the car
17 later that night.

18 Now, maybe Casey Moon doesn't remember that and
19 doesn't remember what Mericle and Walters testified to, that
20 Johnny was there after he recovered from the worst parts of the
21 concussion, that he was there with the injured players doing
22 all the things during the season, he was with the team
23 continually, and at the end of the season, he was cleared to
24 get back in the pool and starting out with non-contact work but
25 swimming.

1 He was part of the team the whole season. Why do they
2 put on a coach who's going to say something that's so contrary
3 to what the teammates will say?

4 If we could have the next slide, please.

5 And you have Coach Bowen. Read his -- remember his
6 testimony. Look at the slide, what it says here. He tells you
7 he was good enough to be on that team, there was nothing
8 inappropriate about recruiting Johnny for that team. He had
9 A-plus speed, he had a great work ethic and a great attitude.

12:29 10 The government's whole case really turns on Exhibit
11 88, the profile Mr. Singer submitted to USC.

12 They have to prove John knew the profile was false,
13 knew Singer submitted it, and they have to prove that Vavic
14 relied on it knowing it was false, that Vavic was part of the
15 fraud.

16 They can't show that at all, and they certainly can't
17 prove that beyond a reasonable doubt.

18 First, it's undisputed, John didn't supply any
19 information in that profile, 88, other than the photograph,
12:29 20 which is a genuine photograph.

21 Second, Mr. Singer gave his own false information to
22 Joel Margulies and asked him to write up the profile.

23 So what does the government do? They cite Exhibit 83.
24 Please write that down and look at it when you're in the jury
25 room. You know, that's the embellished e-mail. Jovan has

1 Johnny's stuff and asked me to embellish his profile.

2 Look at John Wilson's response. He isn't talking
3 about the content of the embellished profile. He's saying,
4 When is the application going to be done? When is the profile
5 going to be done? When is the date you're going things
6 completed? No discussion of the content.

7 And when he refers to the profile, Singer responds to
8 him in Exhibit 83 on page 3: "The profile, I am assuming you
9 are speaking about Naviance. I've attached the comment to
10 Naviance, filled in schools, et cetera."

11 John responds to his comment on a profile being
12 embellished and Singer, for some reason, changes it to a
13 Naviance profile, not a sports profile.

14 There's nothing to put him on notice that
15 "embellished" means something sinister.

16 "Embellished" has two definitions in the dictionary.
17 You can make something look better. There's embellished blue
18 jeans, you put little embroidery and sparkle on them, that's
19 not a fraud. Or it can be used to exaggerate things
20 incorrectly. But do you think that your trusted family adviser
21 that you trust with your kids is going to use "embellish" in a
22 fraudulent way without any forewarning or without any notice?
23 It's not a good inference.

24 You know, in the law we have a phrase to use when the
25 government tries to rely on a word that has two meanings and

1 can't show which one applies. We call that reasonable doubt.

2 If there's two different ways to define "embellish"
3 properly and they have no reason to show that the bad one is
4 known to John and understood by John, that is reasonable doubt.

5 The next issue is they cite Exhibit 49. And that's
6 where John's, you know, asked what exactly would Johnny have to
7 do on the team, what is to be expected. This is March 27th,
8 before the plan visit to see Vavic and meet the USC team the
9 first week of April.

12:31 10 And so John does have some concerns. You've heard
11 they had some hulking European guys that are 21-year-old
12 freshmen. But they also have a bunch of red shirts like Andrew
13 Mericle where Johnny would fit in perfectly.

14 So what does Singer tell him?

15 "They have 42 guys, 20 do not travel but practice, he
16 will be fine. Bench warming on the fourth time in a row
17 national champion is not bad as a freshman."

18 And what does John say?

19 "I would love him to actually be committed and give it
12:32 20 his best. I don't want to taint his meeting with USC coach."

21 It's a father's normal concerns and questions, and
22 Rick Singer, for once, tells the truth and gives him an honest
23 explanation.

24 Now, Mr. Frank said something that is flatly wrong,
25 and I suggest he knows the evidence that contradicts what he

1 said.

2 It's Exhibits -- I ask you to write them down -- 711
3 and the 9698. Those are the e-mails, you may remember, they
4 put 711 before Agent Brown and tried to create the impression
5 that the meeting between John and Mr. Singer when John is
6 flying home from Amsterdam was going to be scheduled for 3:30
7 on Sunday.

8 We had to put in Exhibit 9698, which is the mirror
9 image e-mail, one is from Singer's e-mail set, the other is
10 from Wilson's e-mail set. What 9698 shows, which you may
11 remember and Agent Brown testified, is that the dates don't
12 line up. We have a European date and an American date.

13 So Mr. Frank is trying to make it look like the
14 meeting was on Sunday, but if you look at 9698, you'll remember
15 that the meeting was on Saturday before the profile was sent to
16 John Wilson, before the profile I think was even sent to
17 Mr. Singer.

18 So what is the point of that? There was no meeting
19 between the two of them when the profile had been sent to John
12:33 20 Wilson. There's no reason to think that they sat down and
21 discussed it.

22 He does send the e-mail on October 19 with an FYI.
23 John never responds. And you know when it comes to his
24 children, John sends text messages, he sends e-mails, he is on
25 top of anything Singer sends him. He's back and forth, back

1 and forth. You'll see in the September call Singer even teases
2 him that he gets so many text messages from John.

3 There is zero response to the profile, not an e-mail,
4 not a text message, not a reference to a phone call. And why
5 is that so important?

6 If we could have the profile, please.

7 There were too many errors in there for John to have
8 missed if he had read it. It's got his wrong -- first of all,
9 it's got the wrong SAT scores. It doesn't have the 29 ACT.
10 That's what John was e-mailing Singer about, calling out
11 percentile, celebrating the 29 is the 93rd percentile. That's
12 a magic number for USC admissions. It puts him in the middle
13 50 percent.

14 It lists Jack Bowen as a Stanford coach when he's not.
15 It doesn't list Jack Bowen's SoPen club, and it has the wrong
16 street address. It doesn't have the Alcatraz swim that's a
17 very big thing in the Wilson family.

18 The point being, if John Wilson had seen this, he
19 would have recognized at least one of these errors. He
12:35 20 probably would have recognized all of these errors, and he
21 wasn't going to let it go out without correcting errors.

22 And it doesn't have a lot of the true credentials that
23 Johnny has. Johnny is somebody who got CCS recognitions. He
24 got all-league recognitions both before and after the date of
25 this e-mail. You know, Johnny's credentials are not as good as

1 on that profile, but they're good enough to get into USC with
2 Jack Bowen's support.

3 You heard Casey Moon say if Jack Bowen supported
4 somebody, that would be a substantial impact on USC recruiting.
5 And you heard Jack Bowen testify he spoke to probably Coach
6 Pinterik, maybe Coach Moon, and he was very supportive of
7 Johnny going to USC, A-plus speed, great work ethic, a real
8 grinder. He supported Johnny getting in.

9 So bottom line, that creates, I suggest, substantial
12:36 10 reasonable doubt that John ever saw it, that he would let
11 something go out with so many obvious errors that -- and
12 particularly the ACT scores. It hurts him to put the lower SAT
13 on the document without the higher SAT. There would be no
14 reason to do that. There would be no reason to put Jack Bowen
15 down for a club that he doesn't coach.

16 Finally -- so when you look at the evidence, keep in
17 mind the Wilson family has no secrets. They took every e-mail
18 the family had over a five-year period, they grabbed all their
19 tax returns. They wire-tapped, they had recordings. They put
12:37 20 a vacuum cleaner on this family's communications and data, and
21 they haven't come up with anything better. They haven't come
22 up with a single response or comment on that profile. If they
23 had a document, you know that they would have brought it to you
24 and shown you something to corroborate that.

25 The last comment I want to say of that profile is the

1 government showed Exhibit 712 during Agent Brown's testimony.
2 It shows that on October 19, about two -- about an hour after
3 the profile was sent to John, he sent out an e-mail that had
4 the same picture of the profile. The government didn't put in
5 the exhibits, a week later we did, 9901, 9899, and 9902. The
6 government didn't want you to see those. They wanted you to
7 think there was something special about that e-mail on October
8 19 with the photo in it from John. It was part of a whole
9 series of correspondence about the yearbook page they were
10 purchasing for Johnny and looking for pictures, wholly
11 unrelated to the issue of the profile.

12 And so perhaps the most damning thing and the greatest
13 source of reasonable doubt on the profile is what happened in
14 2018. Think of it from the prosecutor's perspective. Singer
15 agrees to be their informant. They can have him talk to
16 whoever they want. They can have him talk as many times as
17 they want. They can have them say whatever they want. For
18 lots of parents, they had Singer discuss bad acts in the past,
19 fraudulent things, Isackson, Kaplan, others.

12:38 20 Can we have slide 11, please.

21 But with respect to John Wilson, they never asked him
22 anything about Johnny's profile. They never asked him anything
23 about false credentials to USC. All those tapes, all those
24 text messages, everything that occurred during 2018, not a
25 reference once to Johnny's profile, to false credentials, to a

1 bribe to Vavic. They avoided that topic like the plague, and
2 they did it because Singer was so adamant, Wilson never thought
3 he was giving a bribe, he always thought it was a donation.
4 The kid was a real polo player who played.

5 You know, they could have just settled this whole case
6 with one question about that profile in all their tapes. They
7 didn't leave it out by mistake. They didn't leave it out
8 because they didn't have budget. They left it out because they
9 knew they would get an answer that they didn't want, an answer
12:39 10 that would be showing innocence, not guilt.

11 And even in Exhibit 620, they take Coach Vavic, they
12 have Singer call Vavic. Again, they don't mention anything
13 about Johnny Wilson to Vavic. If they thought they were going
14 to catch a fish, don't you think they'd try?

15 Coach Vavic, remember that thing we did for Johnny
16 Wilson? Not much of a kid and he never showed up and it was a
17 good thing you got the money for your quid pro quo.

18 They said nothing about John Wilson to Vavic. We have
19 a expression in the legal community when the government avoids
12:40 20 asking a question that could lead to an innocent statement:
21 reasonable doubt.

22 If they thought they could get anything of John Wilson
23 on that profile, don't you think they would have asked Vavic or
24 Wilson sometime during those tapes? It's the most basic issue
25 in this case, it's the most important issue for them, and they

1 didn't even try.

2 In sum, if the government cannot prove beyond a
3 reasonable doubt that John knew Mr. Singer had exaggerated or
4 lied about Johnny's credentials, then Mr. Wilson had no reason
5 to believe Coach Vavic had done anything wrong. There's no
6 theft of honest services, there's no deception of the Subco
7 that he'd be aware of, and there's no reason to think that
8 Mr. Singer is committing bribery.

9 Now I want to turn to the issue of the tax returns.

12:41 10 What happens, Singer tells John he wants to pay the
11 money through Singer's organizations. You know he always does
12 that. Oh, there won't be publicity, your kid won't find out.

13 John has a Sub S corporation, he can take the money
14 out of that, you've heard enough testimony. A Sub S means
15 it's, in effect, his money for tax purposes. There's no
16 skimming out of a corporate account.

17 We gave you Exhibit I think it's 122 that shows John
18 had \$2 million in a Sub S corporation. Anybody who ever
19 manages cash knows you go to the account where the cash is if
12:41 20 you need it.

21 So he says -- what does he say to Singer? Send me a
22 receipt for consulting or whatever. He doesn't care what it's
23 called, whatever. He needs a receipt when he's in Europe to
24 give Debbie Rogers to direct where the money should be
25 transferred, \$220,000 out of the Sub S corporation. It's a

1 receipt for accounting purposes, not tax purposes.

2 The only way the government can prove a tax offense is
3 they have to make a particularly high standard that Judge
4 Gorton will instruct you on. Taxes are complicated. People
5 make mistakes all the time on a tax return. In order to make a
6 mistake something criminal, they have to prove more than it's a
7 mistake. They have to show it's a violation of a known legal
8 duty. That's a higher level standard of intent than any other
9 charge in this case, a violation of a known legal duty. They
10 have to show that John actually knew he had paid a bribe for
11 \$220,000, that he was not entitled to deduct that, and he
12 purposefully put it on his tax return deducting it knowing that
13 he was not entitled to do so.

14 If there is negligence or there's mistake, the IRS can
15 go chase him for money in a civil audit, but to make a criminal
16 tax case, they have to show there was a violation of a known
17 legal duty.

18 What do we know? John filed five different tax
19 returns in 2014: Holland, California, the U.S., HPC,
20 everything. He had to file amended returns for several of
21 those years. He probably filed nine tax returns for 2014,
22 several hundred pages long. He had the finest tax preparers
23 you could find doing the work.

24 So what happened?

25 If we could show slide 12, please.

1 John's going to give \$100,000 to The Key Foundation,
2 and he does. He's going to give -- excuse me, going to give
3 \$120,000 to The Key Foundation that's going to be used for the
4 benefit of the USC team. They admit, that's the money Singer
5 stole, John had no idea about it. And he gives \$100,000 to The
6 Key.

7 If we could have the next slide, please.

8 He gets a thank you -- what happens is, he steals the
9 money, he gets a thank you note from USC, the Trojan Athletic
10 Fund. He gets a thank you note from The Key Worldwide
11 Foundation.

12 And look at the check that's being used that was
13 invoiced through the expression of consulting. It's paid to
14 the order of USC men's water polo from the Wilson family. And
15 he gets a thank you letter.

16 There would be no purpose to intentionally and falsely
17 report this on a tax return as a business expense if you could
18 take it as a charitable deduction.

19 The issue of motive is critical on this tax issue.

12:44 20 There was no tax saving or benefit to John to have it
21 recorded as a business deduction when it was simply a
22 charitable contribution paid to USC with a thank you note from
23 USC.

24 You remember the agent testified that because of some
25 calculation issues it actually might result in a saving of

1 \$1,425 on a tax bill that was \$966,000.

2 Now, during that year, John missed his deduction for
3 the HPC office rent, he overpaid the California income tax and
4 had to get refunds for \$500,000 years later. What that shows
5 is John's not real attentive to his taxes. He makes mistakes.
6 He was in Europe running around as a CEO of a major company,
7 and he made some errors. It doesn't allow him to make false
8 statements, but it explains that something is not a violation
9 of a known legal duty.

12:45 10 It was a mistake a busy executive who was not
11 following -- could we have the next slide, please -- what was
12 going on.

13 \$20,000 of it, that was for expenses. And you know it
14 was for expenses because in the 2018 tapes, Singer and Wilson
15 specifically discuss Singer was never personally paid for any
16 work for Johnny's donation. Singer may have taken that \$20,000
17 for himself, but John thought it was for expenses. He never
18 knew it was a payment to Singer. That's why he keeps saying:
19 You don't get paid for this. You just do it for your \$7,000 a
12:46 20 year fee. Take my Harvard Business School advice, I can tell
21 you how you can make a better cost and production out of this
22 national business that you're running.

23 If we could have the next slide, please.

24 And the next one after that, please.

25 Okay. And you can see, Debbie Rogers is the one who's

1 doing the paperwork on the invoices. None of the invoices the
2 government focuses on were ever sent to John. It was all done
3 by Debbie in California when John is working in Europe. He's
4 delegated it to his bookkeeper.

5 And what do we see?

6 If we could have the full slide, please.

7 He asked her to deal with Singer's bookkeeper to do
8 it, and then the green is all the sort of tax preparation work
9 done by tax preparers that John's not involved in.

12:47 10 If we could have the next slide, please.

11 The whole problem was, and you heard James Nahmes
12 testify, every year Nahmes cleans up the books at HPC. He
13 would go through the audit work and he would reclassify all the
14 entries. You may remember we went through his work papers,
15 Exhibit 134, and these papers you see are the 61 corrections he
16 made in 2014 to the accounting entries in HPC's books. And he
17 testified if somebody had had a copy of that Trojan fund thank
18 you letter in the records, it would have raised questions, he
19 would have run it down, and he would have classified it
12:47 20 properly.

21 Debbie sent a copy of it to John, she did not send a
22 copy of it to Nahmes. It was an oversight.

23 The same year Mr. Nahmes testified he had to reconcile
24 a \$50,000 charitable contribution to Autism Speaks because of
25 paperwork issues. It's something he did every year. This one

1 got overlooked.

2 And you may be skeptical, why this one gets
3 overlooked, this one is the one the government says is the most
4 suspicious. My response is, what is the motive? There's no
5 tax benefit to calling this a business deduction when it can so
6 easily be called a charitable deduction.

7 And we know that the only way the government can show
8 that there is a crime, that there's a known violation of a
9 legal duty is if they can show that John actually thought it
10 was a bribe, knew he couldn't deduct it, and falsely described
11 it on his tax return. That's the violation of the known legal
12 duty that Agent Ranahan was trying to testify to.

13 But the problem is that conflicts directly with what
14 Agent Keating told us, that Singer kept on telling the
15 government John always thought it was a donation.

16 It's unambiguous, it's undisputed, they
17 repeatedly told -- Singer repeatedly told the government John
18 always thought it was a donation.

19 And what does that mean? There's no intentional
12:49 20 violation of a known legal duty. There may be a mistake. The
21 IRS can bring a civil audit and collect money. But to have
22 that high level of intent necessary for a criminal tax charge,
23 if John believes it's a donation and doesn't think that it's a
24 bribe, then they cannot show a violation of a known legal duty.

25 And so now we want to turn to the issue of the tapes

1 that were made in 2018 and that give rise to the claim of
2 violations involving Stanford and Harvard.

3 The prosecutors charge John with eight felony counts,
4 a lot more than Bruce Isackson ever faced, Mikaela Sanford,
5 Laura Janke. Five of these counts are solely about discussions
6 in the consensual phone calls and text messages in 2018. And
7 the question for you is: Did Rick Singer con, manipulate, and
8 deceive John only one time when he stole the \$120,000 or did he
9 do it twice?

12:50 10 The best evidence that Mr. Singer had conned John
11 about USC comes from Singer's and John's own words. Mr. Singer
12 was emphatic in his notes, that's Exhibit 13, which you've seen
13 many times. John was a real player who played. He always told
14 John that he gave a donation to a program, not a coach.

15 You can see how sincerely John believed Mr. Singer
16 from the wiretap communications before September 21.

17 Mr. Frank focused on that September 15 call. Let's
18 start out with the text messages before that, September 6 or 7,
19 where Mr. Singer is saying, I'm coming to meeting the president
12:51 20 of Harvard and Tufts.

21 If they're part of a nationwide fraud, if John is a
22 cynical crook like Bruce Isackson or a cynical guy like Gordon
23 Kaplan, you need to lie to him and get the credibility that
24 you're meeting the presidents of Harvard and Tufts to try to
25 get him to do business with you?

1 Look at the September 15 call.

2 Mr. Singer -- whatever Mr. Singer says, what does John
3 say? When they talk about his daughter doing crew, John is
4 talking about, Well, they're going to have to get good times.
5 He's talking about what could they realistically expect they'll
6 get for erg scores to show a coach. He's not talking about
7 falsifying anything.

8 At some point they're talking about being a manager of
9 the team, and John says in many of the tapes, Well, you know,
10 the one who's a sailor should go to Stanford because she'll
11 know how to be the sailing manager.

12 The little clip that Mr. Frank showed you of him
13 saying a mascot or water boy, he cut off the bottom where they
14 said a manager. Maybe they bantered about what it would be,
15 but it's repeatedly discussed as being a manager and that the
16 girl who is best equipped to do sailing would be appropriate
17 for Stanford because she would know how to be a manager of a
18 team.

19 How do we know that that's realistic? Look at
12:52 20 Singer's website. Do you see -- remember the two testimonials
21 from the two students at UT Austin and SMU thanking Singer for
22 arranging them to be a manager of teams at their colleges?

23 It's not a made-up story. That was a standard part of
24 what Singer did.

25 Listen to the entire September 15 tape. Listen to

1 what John says and you'll see John is not proposing to falsify
2 credentials, to falsify records. Singer makes a flip comment
3 or two, but it's not John's statements.

4 Also look at the October 15 and the November 29 calls
5 where John talks about they don't have to be athletes.

6 Can we have the next slide, please.

7 Perhaps one of the most compelling things is 10 times
8 during this three months' period John is offering Singer
9 business in how he can make more money. It's a little bit
10 comical I will admit, but that is what John's perspective, he
11 can give Singer better advice on how to run his business.

12 He talks about a pricing model, added service fees,
13 manage your overall pricing. He's talking to him like he runs
14 a legitimate business. Seven hundred side doors at 50 schools
15 around the country. This man has an amazing network of
16 connections, he ought to run it like a proper business and make
17 some money on it and not do it for free like John thinks he's
18 done it for John Wilson.

19 John is not having conversations like Gordon Kaplan or
12:53 20 Janavs or the others about controlling a room or falsifying or
21 lying to the IRS or challenging an audit.

22 And when we pressed Agent Keating about that, why
23 didn't you treat John like the other parents? Why did you have
24 conversations that were not explicit, that do not ensure clear
25 evidence? She said, Well, you know, we were concerned that if

1 we did it that way, John would realize Singer was under
2 investigation and it would spook him and scare him off. That's
3 made up, wholly made up.

4 Do you think John would ever think that the guy he
5 trusted with his teenage children was going to be under
6 investigation? He simply would have said, No.

7 And to be honest, it doesn't matter what excuse the
8 government comes up with. It doesn't matter what sort of
9 rationalization they have. They purposefully treated John
10 differently. They never asked him an explicit question, they
11 allowed Singer for three months to keep him talking, the
12 president of Harvard, reading admission files at the admissions
13 offices at Harvard and other schools, you know, pricing for
14 this, donation, donation, donation.

15 And what's the issue? Once in a while he can slip in
16 a little word, he can say donation, donation ten times in a row
17 and then slip in something like, Oh, a real sailor, and if John
18 doesn't catch him every time, that's not an agreement to join a
19 conspiracy. That means they know how to play with him. A
12:55 20 great con man and a bunch of agents can play with a guy and
21 never give him a straight-up, direct question. Do you want to
22 join the conspiracy? Do you want us to control the room and
23 cheat, like they said to Gordon Kaplan? Do you want us to
24 create fake profiles, like they said to Bruce Isackson? Or do
25 they keep on saying, you know, it's legit, it's legal, we'll

1 discuss pricing later. The president this, the president of
2 Brown, the president of Harvard, reading at the files, and then
3 slip in a little word.

4 That doesn't show an agreement. That doesn't show
5 somebody willfully on his own words on his own behavior joining
6 a criminal conspiracy.

7 I suggest to you if Rick Singer and the FBI and the
8 IRS targeted anybody to play games with, and there was an
9 eight-year relationship of trust and respect and reliance and
10 affection and friendship, they could slip in a few words on
11 anybody.

12 They never made it a drop dead, easy, clearcut
13 question: Do you want to join a criminal conspiracy? Yes,
14 they could use different words. We've got to pay the coach
15 some cash. The coach needs money for a mortgage. The coach
16 wants to go on vacation. We're going to have to falsify the
17 credentials, is that okay with you?

18 They never once put it in those terms.

19 If I could have the next slide, please.

12:56 20 The payment to the coach, is there a better example
21 than that? What did they say? First of all, they say you
22 can't use the word "bribe." Tell him you want to pay a coach.
23 So what does Singer do? We got to pay the coach in the school.

24 And Wilson responds, "I thought you paid the school.
25 What do you want me to pay the school for?"

1 And then later when the issue comes up, he says,
2 "Well, the side door has rules and procedures. If they wanted
3 to make John pick which side he was on, did he want to join a
4 criminal conspiracy or was he going to keep on doing what he
5 thought, just making a donation that was legal and lawful, they
6 should have given him a straightforward choice. They shouldn't
7 be sort of sneaking around, reassuring him constantly and then
8 every once in a while slip in a little word.

9 We've all had friendships, relationships that go eight
12:57 10 years where we trust people, maybe it's a doctor, maybe it's a
11 car mechanic, maybe it's anybody you deal with at work. But if
12 you have someone you trust who's been good to your family and
13 you respect for eight years, if they say an oddball comment, if
14 they say something inappropriate, what do you do? You go back
15 to the eight years of relationship you've had.

16 Remember what Agent Keating said: We kept on trying
17 to get him to say things more explicit but he'd always go back
18 to the way he had done things in the past, talking about
19 donation, treating it as legal.

12:58 20 Well, don't you think John Wilson did the same? Don't
21 you think John Wilson was in an eight-year relationship and an
22 eight-year type of communication and set of expectations and
23 didn't have his antenna up?

24 And so why would you expect him to be looking for the
25 one phrase here or there when Singer was constantly reassuring

1 him?

2 Here are some of the excerpts we've given you.

3 Yes, Singer says on October 15th, "I can sell them to
4 somebody. They're athletic enough to be able to take them."

5 But then look at all the things on the other side.

6 "And they don't actually have to do the sport, you're
7 saying?" Wilson is asking questions, he's not conspiring.

8 "They can just go and be like the score keeper or
9 water boy or water girl." Singer says, "Manager, or whatever
10 you want to call them."

12:59

11 Manager, those things, that's what Mr. Frank cut out
12 of the stuff he was showing you, the discussion that they're
13 actually discussing. They can be manager of the team.

14 John is never saying, What do I have to make up? What
15 time are we going to falsify for the erg scores? What are we
16 going to falsify for this?

17 And he's saying even though they wouldn't play, he's
18 asking that, he's confirming that. He's not conspiring with
19 it.

12:59

20 If we could have the next slide, please.

21 Yes, he has to recruit some real sailors so that
22 Stanford doesn't catch on. It slipped by John, what can I say?
23 It's not a good phrase, it's not a good expression, but I
24 suggest to you there's not enough notice and intent and
25 discussion and awareness to say that someone joins a criminal

1 conspiracy because somebody purposefully slips in that phrase
2 amidst all of the other discussions of Harvard approving it,
3 the president of Brown, the president of Tufts, reading
4 admission folders.

5 And if we could go to the next slide, please.

6 And here is him telling him why he has to keep it a
7 secret. "So you don't get hounded for more donations." And
8 Singer says, "Don't go to development."

9 This, I think, is perhaps one of the most important
01:00 10 calls because the one on the bottom occurs on January 3rd,
11 after the money has been paid.

12 Look at the highlighted. "I've had families before
13 that essentially have gone through the side door and then
14 because people found out who they were, the development office
15 calls them, admissions will call them, all trying to get, you
16 know, donations."

17 And then you go further down. "Then people start
18 saying on the athletic side that since we're going through the
19 side door and you've already made, you know, two \$500,000
01:01 20 contributions, they're going to say so, you know, so why are
21 you going through athletics, you know, when development has
22 already been talking to you?"

23 Could we have the next slide, please.

24 This is what the government wants us to think John
25 Wilson was thinking.

1 Look at the left side. Their story is Mr. Singer is
2 telling him, "Don't tell them about the bribe you just paid
3 because they'll come back and development will ask for
4 legitimate donations."

5 It's ridiculous.

6 Look at the blue side.

7 What are they telling him on January 3rd to further
8 mislead him that it's a legitimate operation?

9 "Don't tell them about the donation you've made
01:01 10 through the side door, a legitimate donation, they will ask for
11 more donations and they will come after you."

12 Why is Singer spinning that story on January 3rd?

13 And more importantly, as Agent Keating told us, why
14 did they never correct it?

15 Do you remember how many times I asked her -- I was
16 probably a bit redundant but I had to make the point -- why
17 didn't you ever correct any of the lulling stories that
18 Mr. Singer said? Why didn't you ever go in and tell John,
19 "John, this is not authorized by the presidents of
01:02 20 universities. John, this is not a charitable contribution.
21 John, you didn't make a donation in years past, it was a
22 bribe."

23 Why didn't they ever sort of undo the things that
24 Singer was saying?

25 Keating tried to disown Singer. You may remember she

1 said, "We wanted him to be more explicit but he wouldn't listen
2 us."

3 My first question is: Who runs the investigation? Is
4 it the FBI or is it Mr. Singer? Or was it, more importantly,
5 they liked what Singer was doing? They wanted Singer to give
6 the lulling stories because John could fall asleep and they
7 could slip in a word here or there. Because if Singer had ever
8 said to John, "John, I got to admit, we've been friends for
9 eight years, I'm sorry, John, but the president of Harvard
01:03 10 doesn't approve this, I'm going to have to grease somebody and
11 bribe somebody, the president of Harvard has nothing to do with
12 this," what do you think the answer they would have gotten from
13 John? And why do you think they didn't ask that question? And
14 why do you think they kept so much stuff out of their reports
15 that Singer told them?

16 You know, the notes we have, that's from an October
17 1st phone call that they had with Singer when they yelled at
18 him over the September 29th phone call with John Wilson. Why
19 do you think they sort of danced this fine line, slip in a word
01:03 20 but never tell John what's really going on?

21 Is that proof beyond a reasonable doubt? Is that sort
22 of ensuring explicit statements where there will be no doubt
23 about a person's intent? Or is that just manipulating the same
24 chump that Singer has been manipulating for the last eight
25 years?

1 I'd like to quickly finish up.

2 With respect to the witnesses, I talked about Chassin.
3 You know, she's not the boss, she doesn't talk to anybody.
4 They picked her because she knew nothing.

5 What do we say about Casey Moon? He doesn't know
6 anything, that's why he was picked. Either he doesn't know
7 anything or he'll say he doesn't know anything. He's the guy
8 that prepared the witness -- the athletic profile that had the
9 times they say were so obviously unrealistic anybody should
01:04 10 know. Casey Moon is the guy that typed that up. Casey Moon is
11 the guy that typed up he's the number 10 attacker in the
12 country when Casey Moon knows who the top ten attackers are in
13 the country.

14 What's going on with Casey Moon? I'm not sure. USC
15 wants to deny any knowledge of anything, wants to pretend they
16 have a pristine clean admissions process.

17 The bottom line is, when Casey Moon says Johnny was
18 not there after the first day, we know that's not true, and
19 that's what they called to bring him in for. Anything else
01:05 20 they say about Casey Moon is a retreat from their original
21 position. They brought Casey Moon in to say he wasn't there.

22 Remember they showed him that September 10 document
23 when Johnny wasn't responding to the e-mails? That's when he's
24 in the dark room and he can't get out and he finally responds.
25 I put in the document that has the response. They just leave

1 it like Casey Moon never got an answer from Johnny on getting
2 his stuff for NCAA clearance.

3 You heard the testimony. He's sitting in a
4 blacked-out room and he can't use the computer. They had both
5 of those documents. Why did they give you the one that didn't
6 have Johnny's answer?

7 I'd like to now go into the issue of the indictment.
8 There is two conspiracy counts against us: conspiracy to commit
9 mail, wire, property and fraud and honest services; and
01:06 10 conspiracy to commit federal program bribery related to USC.

11 Count One is this big, national conspiracy. That
12 means to convict John of Count One, you've got to find he
13 agreed, shown by his own words and his own actions, to conspire
14 with Janavs, Kaplan, Bruce Isackson, test cheating, taking
15 classes for people, things he didn't know about, things he
16 never heard about, things that were never within the scope of
17 his agreement or knowledge or intent.

18 In order to show him guilty of any of these charges,
19 the government has to show that he acted willfully.

01:06 20 The judge will instruct you "willfully" means to act
21 voluntarily and intelligently and with the specific intent that
22 the underlying crime be committed.

23 Do you think John acted with the specific intent for
24 this nationwide conspiracy to be committed?

25 That's to say he acted with a bad purpose, either to

1 disobey or disregard the law. If the government fails to prove
2 beyond a reasonable doubt that John was acting in bad faith
3 with the intent to disobey the law, then you must find him not
4 guilty as to each of the charges.

5 That makes sense. Before someone can face serious
6 consequences of being found guilty of a felony, you have to
7 decide beyond a reasonable doubt that he truly intended to
8 commit the crime.

9 It's not enough if you think John should have been
01:07 10 shrewder. Look, let's face it, John was the math nerd in high
11 school. He wasn't the guy who was the cool kid or the street
12 smart kid. He's an engineer, a guy whose life is math and
13 taking standardized tests and making his kids take standardized
14 tests. So you've got to stand in his shoes. It's not enough
15 if you think he was gullible or too trusting. He certainly
16 was. But you have to show that he intended and knowingly and
17 wanted to join a criminal conspiracy.

18 He didn't act out of ignorance, accident or mistake.
19 You have to find that he acted willfully, knowingly or
01:08 20 corruptly.

21 Count One is the conspiracy charge we've just
22 discussed.

23 Count One has two separate parts. One is a property
24 fraud and the other is honest services fraud. The government
25 hasn't proven either beyond a reasonable doubt.

1 Honest services fraud would mean he had to corrupt
2 Vavic and intentionally done so.

3 Property fraud would mean he had to have known that
4 that profile was fraudulent, that he was going to get some
5 property out of the school.

6 To prove mail fraud or wire fraud with regard to
7 property, they have to prove each of these elements. John
8 entered a scheme to cheat a university out of its property.
9 It's clear Singer said he was there to make donations. That
01:09 10 alone ends the issue.

11 In terms of whether any misrepresentation was
12 material, the government has to prove beyond a reasonable doubt
13 that if the Subco had been presented with an accurate profile
14 for Johnny Wilson, they would have not let him in. The Subco
15 deferred to the coaches' decisions, they would have let him in.
16 He had the academic standards, he had the athletic abilities.
17 Maybe he wasn't A-plus in every category, but you heard Bowen,
18 he was A-plus in speed, and that's going to catch the eye of a
19 good college coach, including a USC coach.

01:09 20 He fit in with the team, he was able to keep up at
21 practices. He clearly belonged to get in.

22 With respect to John's daughters, the government
23 hasn't proven any misstatement. John never said, "We're going
24 to file a false profile. We're going to fake some times.
25 We're going to pull things off the internet and give some

1 regattas and titles and championships."

2 All you had was Singer slipping things in here and
3 there without John ever agreeing that he was going to defraud
4 Harvard or Stanford.

5 The heart of the claim is whether John knowingly and
6 willfully participated in a scheme to defraud a university,
7 that he knew false information would be presented for Johnny,
8 and he intended to break the law by doing so.

9 Where does the government have evidence here? The
01:10 10 embellished e-mail, that's reasonable doubt. An e-mail that
11 was sent to him that had all the errors he didn't correct,
12 that's zero evidence.

13 For honest services, they have to show he participated
14 in a scheme to defraud the university of the honest services of
15 its employees. There's nothing about that with respect to
16 Harvard or Stanford. He's not agreeing to defraud the school
17 of their honest services.

18 And you heard Rebecca Chassin's testimony. There was
19 no limits on what Vavic could consider for admissions through
01:10 20 Subco. If Vavic wanted to consider a donation, he's perfectly
21 allowed to do that.

22 With respect to the bribery element of honest
23 services, we have Singer's testimony and Agent Keating. John
24 always thought it was a donation, always thought it was a
25 donation. That's why Singer's not testifying in this

1 courtroom, and that's why his notes in Exhibit 13 are so
2 important.

3 Finally, the government has to prove a
4 misrepresentation of a material fact or matter. They haven't
5 proved Johnny wouldn't be admitted. Bowen, Walters, and
6 Mericle showed that he belonged on the team as a red shirt. He
7 may not have been the best athlete on the team, but with his
8 speed, his sense of the game, he was qualified enough to be a
9 red shirt.

01:11 10 I don't need to go through the rest of these 6, 8, 9,
11 11 and 12, they are the same issues, just substantive counts.

12 But Count Two, the federal program bribery, they have
13 to show John intended to bribe somebody. And Singer's
14 testimony -- Singer's statements repeatedly that John never
15 intended to pay a bribe, he always thought he was giving a
16 donation to a program, deals with each one of those briberies.

17 With respect to the tax charge, I've already spoken to
18 you about that. They have to show violation of a known legal
19 duty. John thought he made a donation. He thought he could
01:12 20 get a deduction for it. He had all the statements from the
21 IRS-approved charities telling him it was an approved donation.
22 If there's a small difference in the tax calculation, the
23 government can get it. But there is not proof beyond a
24 reasonable doubt of a known violation of a known legal duty.

25 In sum, I'm going to finish up and thank you for your

1 time and thank the Court for its indulgence.

2 Agent Keating admitted that Singer never took back all
3 the lulling statements he had been making to John for eight
4 years. He didn't take back the Harvard president wanting to
5 partner up with Singer, the four Goldman Sachs clamoring to do
6 side doors. And you heard Jeff DeMaio testify John was so
7 enthusiastic about his work with Singer that he told Mr. DeMaio
8 in October 2018, You should send the Goldman clients to
9 Mr. Singer, he's got this great foundation, you should be
01:13 10 working with him. He wanted to share the opportunities, not
11 hide it like it was a crime.

12 In sum, we appreciate your attention to this case. We
13 ask that you find John Wilson not guilty on all of the charges.

14 Thank you very much.

15 THE COURT: All right, jurors. Normally we'd be
16 breaking for lunch, but we just have the rebuttal of the
17 government left, so I'm going to ask you to take a short break,
18 we'll have the rebuttal, and then I'm going excuse you for the
19 day. Right now we'll have a ten-minute break and then come
01:13 20 back.

21 THE CLERK: All rise for the jury.

22 (Jury exits.)

23 THE COURT: All right, we're in recess for 10 minutes.

24 (Recess taken 1:14 p.m. to 1:27 p.m.)

25 THE CLERK: All rise for the jury.

1 (Jury enters.)

2 THE CLERK: Thank you. You may be seated.

3 THE COURT: Good afternoon, jurors. We're ready to
4 hear the government's rebuttal.

5 Mr. Frank.

6 MR. FRANK: Thank you, your Honor.

7 Good afternoon, ladies and gentlemen.

8 I am acutely aware as I begin that I am the only thing
9 that stands between you and your freedom from this courtroom
01:28 10 for the day and your lunch, and that is the last place any
11 lawyer wants to be. You've been so incredibly attentive for
12 the last three-and-a-half weeks. I'm asking you for 30 more
13 minutes of your attention before we let you go.

14 I just want to start off with a couple of quick things
15 that Mr. Kendall said right at the end of his closing argument.

16 First, he said there was no evidence of a scheme to
17 defraud Stanford or Harvard.

18 He was explicitly told he has to recruit some real
19 sailors so that Stanford doesn't catch on. He was told that
01:29 20 twice in very slow, very plain, very clear English. He
21 repeated it. He has to actually recruit some real sailors.
22 Listen to that section of the tape. It's not insignificant;
23 it's very significant. It's clear evidence that he was told
24 Stanford was not in the loop, that the coach was doing this so
25 that Stanford wouldn't catch on. That is honest services

1 fraud, ladies and gentlemen.

2 He told you that we haven't proved that Johnny
3 wouldn't have been admitted on his merit. Ladies and
4 gentlemen, his own witness, Jack Bowen, sat up there on the
5 witness stand and said Johnny, for all his fondness for Johnny,
6 was a B-plus player who was recruited onto an A, A-plus team.
7 And from that witness stand Jack Bowen told you he did not
8 think Johnny would be recruited to USC for water polo. That
9 was his own coach.

01:30 10 And Rebecca Chassin, the subcommittee member, the
11 member of the admissions department, she testified that neither
12 of these students would have made it into USC based on their
13 academic credentials if they had not been recruited athletes if
14 the subcommittee did not think that the coaches wanted them for
15 their athletic qualifications to play on those teams. That's
16 what the Subco thought, and without that edge, without that
17 thought that these were recruited athletes, recruited onto
18 these teams for their athletic ability, that they were in that
19 highly coveted group of 200 to 250 people, almost all of whom
01:30 20 get into USC, they would not have made it. They would have
21 been among the 85 percent of applicants to USC who don't make
22 it.

23 And then the last point I wanted to just quickly
24 address was on the tax point, that you have to somehow conclude
25 that this was a bribe in order to hold him accountable of the

1 tax charge, that there was no known violation of a legal duty.

2 Actually, that's not true. For one thing, it was the
3 defendant who told his assistant to bill this as business
4 consulting. He told her that. He asked Singer, "Can we bill
5 it as consulting or whatever so I can deduct it from the
6 corporate account?" Look at Singer's response. He says, "Yes,
7 I can invoice you for business consulting so that you can
8 deduct it from your taxes." And the defendant says, "Awesome."
9 And then a month later he tells his assistant, "Make sure to
01:31 10 get the invoice right so that we can deduct this as business
11 consulting." Whether or not you conclude it's a bribe, and for
12 many reasons that we'll discuss you should, but whether or not
13 you do, he is guilty of tax fraud based on those e-mails alone,
14 taking it as a business expense when he knew it was not.
15 Whatever he thought it was, whether he thought it was a
16 donation, which he didn't, or whether he thought it was college
17 counseling for his kid, you cannot deduct it from your taxes as
18 a business expense.

19 And whether you pay \$900,000 in taxes, which, p.s., is
01:32 20 not what he paid that year in taxes, you can look at his tax
21 return, or whether you pay \$200,000 a year in taxes, you cannot
22 lie on your taxes about what it is, because that obstructs and
23 impedes the IRS in its calculation of the taxes due and owing.
24 And whether he saved \$90,000, which is what he did save by
25 lying, or whether he saved \$1,400, it doesn't matter. He was

1 obstructing and impeding the IRS in order to save money on his
2 taxes.

3 Mr. Kendall suggested that you begin your
4 deliberations by focusing on what is not in dispute. Now, I
5 think that is an excellent suggestion. I encourage you to do
6 that.

7 What is not in dispute in this case is that there was
8 fraud in the admission of Sabrina Abdelaziz and Johnny Wilson.
9 There is no dispute that those athletic profiles were full of
01:33 10 lies. There is no dispute that Sabrina's profile was totally
11 made up. There is no dispute, in fact, the defendant's own
12 witness told you, that Johnny's profile made him look better
13 than he was.

14 There is no dispute in this case that Vavic and Heinel
15 both lied to the subcommittee on athletic admissions about
16 these two individuals. There's no dispute about that. You
17 actually saw what they submitted to the subcommittee and it was
18 completely false. It was false about Sabrina Abdelaziz. It
19 was false about Johnny Wilson. There was no way he was one of
01:33 20 the top ten attackers in the graduating class in the in the
21 entire country, and he was not an immediate impact player.
22 Again, the defendant's own witnesses told you that. The
23 profiles that Vavic and Heinel submitted to the subcommittee
24 were false.

25 There's no dispute that those lies worked and that

1 these two kids were admitted to USC because of those lies, that
2 Subco approved those admissions because they thought that these
3 were legitimate recruits for the basketball team and the water
4 polo team. They believed the credentials and the
5 qualifications that they thought came from the coaches, and
6 that the students would not have been admitted otherwise.
7 That's what Rebecca Chassin told you.

8 And there is no serious dispute, ladies and gentlemen,
9 that Vavic and Heinel did that in exchange for the money.

01:34 10 Vavic got that \$100,000 to the water polo team, that's why he
11 did it. And later on, Singer started paying for his kids' high
12 school tuition, and he agreed to do it again in the future.
13 That is why he did it. There's no serious dispute about that,
14 nor is there any serious dispute why Heinel did it. In fact,
15 you heard her on tape, there can't be serious dispute about
16 that. She did it in exchange for the money. First money she
17 took into the women's athletic board that she oversaw, and you
18 saw the increase in those funds during the time of the
19 conspiracy and the increase in her salary over that same period
01:35 20 of time because she benefitted from that, from that
21 fund-raising that everyone thought she was doing, and next
22 because eventually she started taking the money personally.

23 So the upshot, as you begin your deliberations, what
24 is not seriously in dispute in this case is that there was a
25 fraud, that because of that fraud these kids got into USC, and

1 that the insiders did it because of the money. That is not
2 seriously in dispute.

3 So now the only question becomes whether the
4 defendants knew and intended for that fraud to happen.

5 Well, here's what else is not in dispute: Singer
6 e-mailed those fake profiles to both of these defendants. The
7 fake profiles were found in the e-mail boxes of both of these
8 defendants. It's not in dispute. So the argument that the
9 defendants are making is that they didn't read those e-mails,
01:36 10 that it slipped by, they slipped by him. Why? Because, of
11 course, they can't admit that they read those e-mails. If they
12 admit that they read the e-mails, it is game over. It is game
13 over. So they admit that the e-mails were sent to them because
14 they can't deny that, can they? They admit that the e-mails
15 are in their inboxes, but they missed them. They admit what
16 they can't deny, and they deny the one thing, the one thing
17 that they cannot admit, because if they admit that, it's game
18 over.

19 It's amazing when you think about it. Two men, two
01:36 20 sophisticated business executives, two men who are so
21 intimately involved in getting their kids into college, they're
22 in every detail. Mr. Kendall told you that about his client.
23 These two men on opposite sides of the world, and they both
24 missed the exact same e-mail. They both missed it. Think
25 about the chances of that. They must be the two unluckiest men

1 in the entire world. They must be the two unluckiest men in
2 the entire world to have had their kids admitted to USC as fake
3 athletes or based on fake athletic profiles, they both paid
4 hundreds of thousands of dollars to Rick Singer to get their
5 kids admitted to USC as athletic recruits, the fraudulent
6 profiles are e-mailed to them, and both of these men on
7 opposite sides of the world somehow missed it. They missed
8 that one e-mail. That is some incredible unbelievable bad
9 luck.

01:38 10 Of course they saw the e-mails, ladies and gentlemen.
11 They both used those e-mail accounts regularly. They were
12 intimately involved in this process every step of the way.
13 Wilson was in his e-mail account within 90 minutes of receiving
14 the e-mail. Yes, he was sending his wife that same photo so
15 they could use it in the yearbook profile, just happens to be
16 the same photo that was on the fake athletic profile. But he
17 was in his account within 90 minutes. And he had just been
18 told six days earlier that Singer was embellishing that profile
19 at Vavic's direction.

01:38 20 But the bigger point, ladies and gentlemen, is this:
21 Don't miss the forest for the trees. Whether or not they saw
22 the e-mail doesn't actually matter. It actually doesn't
23 matter. The defendants want you to believe, they have asked
24 you in their closing arguments to believe that Rick Singer
25 perpetrated this fraud scheme totally behind their backs, that

1 they were duped, that they were not in on it, that they didn't
2 know what he was doing with those fake profiles, that he didn't
3 tell Gamal, that's what Mr. Kelly asked you to believe.

4 Here is how you know to a certainty, to a certainty
5 you know that that is not true: Because this master con man
6 that they've been telling you about for the past
7 three-and-a-half weeks, what a master con man he is, he
8 e-mailed the fake profile to the very people he was supposedly
9 trying to con. Who does that? He actually wrote "FYI" on the
01:39 10 e-mail to Mr. Wilson and sent him the fake profile. If he's
11 trying to con him, he wouldn't send him the fake profile, and
12 the same is true of Gamal Abdelaziz, whether they looked at it
13 or not.

14 By the way, Bruce Isackson he never got an e-mail. He
15 never was sent an e-mail by Rick Singer, and he knew that his
16 daughter wasn't qualified to be recruited at the Division I
17 level, both of his daughters.

18 So he knew that there was a profile being prepared, as
19 both of them knew, for me to create a USC athletic profile,
01:40 20 that's an e-mail that Mr. Aziz definitely received, he
21 definitely saw, he forwarded it to his wife. Right? They knew
22 that the profiles were being -- he wants an embellished
23 profile, he's asked me to embellish it more, which I am doing.
24 That was Mr. Wilson's e-mail. So they know that profiles are
25 being prepared. Right?

1 And Bruce Isackson told you he knew the same thing,
2 and even though he never saw the profile, he knew it could not
3 be real, it had to be fake, because his kid wasn't getting
4 recruited at the Division I level based on her actual truthful
5 athletic qualifications. And the same is true of both of them.

6 But whether or not they saw the e-mail, what you know
7 to a certainty is that he sent them that fake profile. He sent
8 them each the fake profile. And if they weren't in on it, he
9 would not have sent them the fake profile. He wouldn't have
01:41 10 sent it to them unless they knew and were involved in the
11 fraud.

12 So I submit to you, ladies and gentlemen, do not
13 believe that they didn't look at the e-mail. Of course they
14 looked at the e-mail. They both looked at the e-mail. But
15 whether or not they looked at the e-mail, they were in on it,
16 and the fact that he sent them the e-mail is enough for you to
17 reach that conclusion to a certainty.

18 And once you reach that conclusion, it is, in fact,
19 game over. They are guilty of the fraud conspiracy in Count
01:41 20 One. They are in on the fraud. And that's regardless of what
21 you find about the bribery.

22 If you conclude that he sent them the e-mail and that
23 they were in on it, whether or not they saw it, they are
24 guilty.

25 Now, let's talk about the bribery.

1 They want you to believe that they thought this was
2 legitimate, these were legitimate donations. Again, let's
3 begin with what is not in dispute.

4 What is not in dispute is that they paid the money,
5 \$220,000 for Johnny, \$300,000 for Sabrina, a million dollars
6 for the Wilson daughters.

7 What is not in dispute is that they paid that money to
8 have their kids admitted to those schools. That was the only
9 reason they paid that money. There's never been any serious
01:42 10 dispute about that.

11 What is not in dispute is that they only paid the
12 money once they were guaranteed admission. Right? Once Singer
13 told him, "If you put up the \$500,000" -- listen to the
14 tapes -- "If you put up the 500 and the 500 for your daughters,
15 it's a done deal." That's when he paid the money.

16 With Johnny Wilson, with Sabrina Abdelaziz, they
17 didn't pay until the admission was done, 50 percent upon verbal
18 and written from the subcommittee, and then 50 percent when you
19 get the final letter. That's what Mr. Wilson was told, and
01:43 20 that is, in fact, when he paid.

21 And so the argument then goes, well, they thought it
22 was a legitimate donation and quid pro quo, that's the same
23 thing like when you go to the Red Sox game and you buy tickets,
24 that's a quid pro quo. Well, ladies and gentlemen, the judge
25 will instruct you what an illegal quid pro quo is. Right?

1 It's not going to the Red Sox game to buy tickets.

2 But paying money to get somebody to admit your kid as
3 a fake athletic recruit, paying money to get someone who's
4 employed by a university to lie to their colleagues, that is an
5 illegal quid pro quo. That is honest services fraud. That is
6 federal program bribery, and it's not like going to the Red Sox
7 game to buy tickets. Or presumably buying the tickets before
8 you go to the Red Sox game.

9 The judge is also going to instruct you on a concept
01:44 10 called willful blindness. Pay attention to that instruction.
11 That means you can infer that the defendants have knowledge of
12 something if they deliberately closed their eyes to a fact that
13 should have been obvious to them if they stuck their heads in
14 the sand.

15 Here it was abundantly clear that that money was in
16 exchange for admission as recruited athletes, that the kids
17 were not getting in without the money. That was abundantly
18 clear from all of the evidence you've seen.

19 But here's how you know to a certainty, once again,
01:45 20 that they didn't think this was a legitimate quid pro quo, that
21 they didn't think this was a legitimate donation, because they
22 both lied about it. Repeatedly.

23 You saw the e-mails, we've discussed them at length,
24 in which Mr. Wilson asked Mr. Singer if he could deduct the --
25 if he could invoice the USC fees -- he calls them that in the

1 e-mail -- as consulting expenses so that he can pay them from
2 the corporate account.

3 And then he instructs his assistant to do just that.

4 And Singer responds, You can do that -- "I can do that
5 so you can deduct it as an expense," and Wilson replies,
6 "Awesome."

7 There is no legitimate explanation -- despite the many
8 heroic efforts of defense counsel, there is no legitimate
9 explanation for deducting the USC fees as a business consulting
01:46 10 expense. That was the defendant's idea. If he thought it was
11 a donation, he would never have sent that e-mail. That tells
12 you everything you need to know.

13 You also heard the call in which Gamal Aziz agreed for
14 Singer to lie to the IRS in which he said he was worried and
15 concerned about the audit of The Key Worldwide Foundation, he
16 wanted to make sure he and Singer were on the same page, and in
17 which he agreed to lie about a fake injury to explain why his
18 daughter hadn't shown up for practice.

19 If it was a legitimate donation in his mind, why agree
01:46 20 to lie to the IRS when Singer told him there was an audit? Why
21 did he agree that Singer should lie to the IRS? Why be worried
22 and concerned that KWF was being audited? You're not worried
23 and concerned if you find out the Jimmy Fund is being audited
24 and you gave them money. It doesn't make sense. People lie
25 when they have something to hide, when they are not acting in

1 good faith. Lying is not good faith.

2 They argue that they didn't know about the personal
3 payments to Heinel or to Coach Vavic. Those weren't connected
4 to their kids. Under the law, as the Judge will instruct you,
5 that doesn't matter. It doesn't matter where the money goes.

6 Listen to those instructions, ladies and gentlemen.

7 Conspirators doesn't need to know all the details. What
8 matters is what they thought the money was for. If they
9 thought the money was to get their kids in as recruited

01:47 10 athletes based on those falsified profiles to get an insider to
11 misrepresent to their colleagues what the true situation was,
12 why they were actually recruiting those kids, that's honest
13 services fraud. That's an illicit quid pro quo.

14 They knew that the money -- without the money their
15 kids were not getting in, that the money was getting somebody
16 on the inside to recruit them as athletes, that it was in
17 exchange for admission. The evidence of that is simply
18 overwhelming.

19 There was a lot of argument about the extent to which
01:48 20 Johnny showed up for practice. Was it one day, was it more
21 than one day, was it at the beginning of the season, was it
22 also at the end of the season? Now, the first point on that is
23 the defendants have no obligation to put on a case, right, they
24 do not carry any burden. We carry the burden. It is our
25 burden to prove their guilt beyond a reasonable doubt. We

1 embrace that burden, that's ours.

2 But when the defendants choose to put on a case, you
3 can look at the case that they put on. You can look at the
4 credibility of the witnesses they chose to put up on that
5 witness stand.

6 Their own witnesses testified there was video of
7 practices, right, but what did you see? You saw a photograph
8 of Johnny Wilson running around Sorority Row in his Speedo to
9 try to gin up interest for a game, a social event. You saw a
01:49 10 photograph of Johnny in the bleachers with the rest of the fans
11 watching the NCAA championship game.

12 You didn't see Johnny at practice, even though there's
13 video of the practice.

14 But, again, it's all beside the point. It doesn't
15 matter whether he showed up for practice or whether he didn't
16 show up for practice. Frankly, it doesn't matter if he was the
17 Tom Brady of water polo or whatever the equivalent is in water
18 polo. Or the Lebron James of water polo. It doesn't matter.
19 Here's why: Because Count One charges the defendants with
01:50 20 conspiracy. That is an agreement to do something the law
21 forbids, and that crime charged in Count One was complete the
22 moment the defendant agreed to it. And the evidence in this
23 case is that he agreed to it months before Johnny even showed
24 up at USC, months before the first water polo practice. It
25 doesn't matter if his kid was the Tom Brady of water polo

1 because if he paid money to get someone on the inside to
2 mislead their colleagues about why they were recruiting him, if
3 he lied about his athletic qualifications or agreed to have his
4 qualifications misrepresented to get him in, he could have been
5 Tom Brady or Lebron James, or whatever you want to call him,
6 but the lies and the payment of the money make him guilty, no
7 matter how qualified his kid is, no matter whether he showed up
8 to practice or not. Count One is the agreement, and that was
9 done months before.

01:51 10 Count Two, same thing. It was the agreement. But for
11 Count Two you have to find there was an overt act, some step
12 taken by some member, any member of the conspiracy to make it
13 happen. And here there are dozens and dozens, hundreds of
14 overt acts: wires that were sent, e-mails that were sent, phone
15 calls that were made, wire transfers that were done, admission
16 letters that were received. All of these overt acts are
17 enough. You only need one.

18 And he's guilty of Count Two before his kid ever
19 showed up for practice, or didn't show up, as the case may be.

01:52 20 The defendants spent much of their closing arguments
21 attacking the FBI investigation, that this was a giant FBI plot
22 to frame their clients. I'm not going to respond point by
23 point. Whether the agents wrote down everything that Singer
24 said or didn't write down or wrote down everything they told
25 him -- by the way, there is no evidence in this case that there

1 is any FBI or IRS rule that requires the agents to write down
2 what they said to a person cooperating. There's no evidence of
3 that. That's all insinuations in questions of defense counsel,
4 and insinuations in questions of counsel are not evidence.

5 Your job is to consider the evidence. But the fact is
6 that what Singer actually said, more importantly, what the
7 defendants said back to him, that evidence is on tape and you
8 have it and you've heard it and you can listen to it in the
9 jury room.

01:53 10 And the same is true about Singer's notes, which, by
11 the way, are not diary entries, they weren't notes to himself,
12 they were notes taken by somebody who had not accepted
13 responsibility for what he had done in the early days after he
14 was approached by FBI agents. They were notes for his lawyer
15 at a time when he was actively obstructing the investigation,
16 including by not just deleting his text messages but by tipping
17 people off that the investigation was happening.

18 They want to present to you that this guy is the
19 world's most amazing con man, but the one thing they want you
01:54 20 to believe is that he was telling the truth in his notes to his
21 lawyer on that one day when he accuses the FBI of trying to
22 encourage him to lie and says that the FBI were the bad guys.
23 That's the one thing that the con man was telling the truth
24 about.

25 It's all a distraction. Why? Because they don't want

1 you to look at what they did and what they said. That's the
2 evidence in this case, ladies and gentlemen. And by the way,
3 you have plenty of evidence to convict them of these crimes
4 before you even get to the consensual recordings that Singer
5 made at the FBI's direction. You can convict them on the
6 e-mails alone. You can convict John Wilson based on those
7 September 15th phone calls alone.

8 And, of course, blaming the investigation doesn't
9 explain why Wilson laughed when Singer told them that the coach
01:54 10 had to recruit some real sailors so Stanford doesn't catch on.
11 That was on September 15th, before the FBI ever knocked on
12 Singer's door or the hotel room.

13 And it doesn't explain -- I'm sorry, I misspoke about
14 that. I'm sorry.

15 The September 15th call is when he told them they
16 would make them a sailor because of where you live, and that's
17 where the defendant laughed.

18 And then on the consensual call he said Stanford has
19 to recruit some real sailors so that the -- the coach has to
01:55 20 recruit some real sailors so Stanford doesn't catch on. And
21 you can listen to defendant's response. Listen to the
22 defendant's response to that and listen to what the defendant
23 said on the September 15th call before the FBI approached him
24 when Singer said that we'll make them a sailor because of where
25 you live. Right? There's no innocent explanation for that

1 line. The defense wants you to believe the second line slipped
2 by him somehow even though Singer repeated it twice slowly and
3 the defendant repeated it back to him. He asked him "actually
4 recruit some real sailors," but the first line, they don't have
5 an explanation for that one, when Singer said, "We'll make them
6 a sailor because of where you lived." And the defendant
7 laughed and said, "Can we get a two-for-one special because
8 they're twins."

9 It's a blame everyone defense that you've heard,
01:56 10 ladies and gentlemen. Blame the agents, the investigation was
11 shoddy. They didn't say to Singer -- they didn't have Singer
12 say, "Do you want to join a criminal conspiracy?" Seriously.
13 That is not how criminals talk. They don't say, "Do you want
14 to join a criminal conspiracy?" It's the prosecutor's fault,
15 we hid all the evidence from you, even though you've been
16 sitting here for three-and-a-half weeks looking at dozens and
17 dozens of e-mails and documents, listening to phone call after
18 phone call, listening to more than a dozen witnesses testify.
19 They want you to imagine what else is out there. Imaginary
01:57 20 evidence, imaginary cross-examination of witnesses, that's not
21 evidence, ladies and gentlemen, that is speculation. That is
22 designed to distract you from the evidence. But it's the
23 evidence you have to consider.

24 They want you to believe that it was Rick Singer's
25 fault. He was the consummate con man. That it was USC's

1 fault, they were desperate for money. John Wilson is even
2 blaming his long-time secretary, Debbie Rogers. That one takes
3 the cake. It's the FBI's fault, it's the prosecutor's fault,
4 it's Rick Singer's fault, it's USC's fault, it's Debbie Rogers'
5 fault. Follow the actual evidence, ladies and gentlemen, not
6 the imaginary evidence. Look at what the defendants did and
7 what the defendants said. It's in their e-mails, it is on
8 tape. This isn't Rick Singer's trial. It's not the FBI that's
9 on trial. It's not USC that's on trial. Certainly it's not
01:57 10 Debbie Rogers that's on trial. And Debbie Rogers isn't the one
11 who said, "Let's bill it as a business consulting expense,"
12 that was John Wilson.

13 THE COURT: You need to wrap up, Mr. Frank.

14 MR. FRANK: I will, your Honor. Thank you.

15 The only people they have to blame for their actions
16 is themselves. They have a million different arguments about
17 who was responsible, each more ridiculous than the last. Was
18 he wearing a hoodie, was he not wearing a hoodie when he was
19 throwing up at practice? Was he throwing up at practice or was
01:58 20 he passed out in his dorm room? They're all more ridiculous
21 than the last.

22 We end, ladies and gentlemen, where we started, with
23 the defendant's own words. John Wilson knew his son was a
24 clear misfit for the USC water polo team, he paid the money as
25 a fee only when admission was confirmed, he directed his

1 assistant to lie and call it a business consulting expense, and
2 those are all his own words black on white.

3 You heard him laugh when Singer told him he'd make the
4 girls a sailor because of where they live and laugh again when
5 Singer told him they needed to recruit some actual sailors so
6 that Stanford doesn't catch on. Those were his words, his
7 responses.

8 Same with Gamal Abdelaziz. He sent Rick Singer a
9 photograph of a different girl for a USC athletic profile. He
01:59 10 directed Sabrina to submit an essay about her love for
11 basketball, a sport she hadn't played for two years and was
12 never veery good at. You heard him say, "I love it" when
13 Singer told him that Donna Heinel would use that same fake
14 profile for another fake basketball player and agreed to lie to
15 admissions to say that she had plantar fasciitis and that's why
16 she hadn't shown up. And by the way, that doesn't stop you
17 from being a manager. If you think you're going to be a
18 practice player, you got to show up to practice.

19 The defendants' own words, members of the jury,
01:59 20 convict them in this case.

21 And this case is important. College admissions is
22 important. These defendants used lies and money --

23 MR. KELLY: Objection, your Honor --

24 MR. FRANK: My final two sentences, your Honor -- to
25 steal admission spots their kids couldn't earn on their own.

1 They crossed a line, and they broke the law.

2 And just because it's an important case does not mean
3 it's a close case. The evidence in this case is overwhelming.
4 That evidence and your common sense, the common sense that you
5 walked into this courtroom with three-and-a-half weeks ago
6 tells you that these defendants are guilty beyond a reasonable
7 doubt as charged.

8 We ask you to hold them accountable.

9 Thank you.

02:00 10 THE COURT: All right, jurors.

11 Rather than give you my charge on the law and then ask
12 you to deliberate after a long day, it would be inappropriate,
13 so that's why we're going to break for the day and ask you to
14 come back tomorrow morning at 9:00 when you will hear my
15 instructions to you on the law, after which the case will be
16 submitted to you for your deliberations.

17 It is extremely important now that you honor my
18 instructions. You've heard everything except my closing
19 instructions on the law, but you haven't heard them, and they
02:01 20 are necessary before you go to deliberate.

21 So please do not discuss this case with anybody, that
22 is members of your family, friends or anyone who wants to talk
23 to you about it, and say that you'd be glad to talk to them
24 about it after you have deliberated and after you have come to
25 a verdict but you can't do it before. That would be

1 inappropriate, and I'm asking you not to do it.

2 So I'll see you tomorrow morning at 10:00 a.m. Have a
3 pleasant rest of the day. And we'll get the case to you
4 tomorrow.

5 (Discussion off the record.)

6 THE COURT: Did I say 10:00? Nine. 9:00 a.m.

7 (Jury exits.)

8 THE COURT: We are in recess until 9:00 a.m.

9 MR. KENDALL: Your Honor, may we raise one issue,
02:02 10 please?

11 THE COURT: Quickly.

12 MR. KENDALL: We are concerned about an improper
13 burden shifting in the government's rebuttal.

14 The government referred to videos of practices from
15 the 2014 season. We don't believe such videos exist. Does the
16 government have a good-faith basis to say such videos exist and
17 are available or did they just make that up and mislead the
18 jury?

19 MR. FRANK: The defense witness testified the videos
02:03 20 were made, your Honor.

21 THE COURT: That's my recollection, is there were
22 videos made of the practices.

23 MR. TOMBACK: But, your Honor, the issue isn't whether
24 they were made. It's seven years ago --

25 THE COURT: If you want to file a motion in this

1 regard, file a motion and I'll deal with it tomorrow.

2 MR. KELLY: Your Honor, I have a procedural matter.
3 The Court asked about the curative instruction. We filed it
4 yesterday, we gave it to the clerk, it's in.

5 If I have an issue on the verdict form or jury
6 instruction, can we just file something?

7 THE COURT: Do you have an issue on the verdict form?

8 MR. KELLY: Yes.

9 THE COURT: You've had it since last night.

02:03 10 MR. KELLY: Yes. Our position was we wanted a general
11 verdict that's as was suggested, but as proposed, when it
12 refers to Count One, there's four questions, almost like
13 there's four counts when there really should be one for Count
14 One with four subdivisions is my only request. So that it
15 goes --

16 THE COURT: Do you want to submit something?

17 MR. KELLY: Yes, I do. I do.

18 THE COURT: Do so by 5:00 p.m.

19 MR. KELLY: Yes, we will.

02:04 20 THE COURT: We'll deal with it.

21 MR. KELLY: The only other request on jury instruction
22 was on the willful blindness piece, we respectfully ask the
23 Court make sure it shows that willful blindness does apply to
24 intent to join a conspiracy.

25 I think the Court said that yesterday, but given the

1 argument we respectfully ask -- it's black letter law, *Lizardo*
2 445 F.3d at 73, willful blindness does not apply with someone's
3 intent to join a conspiracy.

4 THE COURT: Thank you. It's on the record.

5 (Whereupon, the proceedings adjourned at 2:04 p.m.)
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C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS)

We, Kristin M. Kelley and Debra Joyce, certify that
the foregoing is a correct transcript from the record of
proceedings taken October 6, 2021 in the above-entitled matter
to the best of my skill and ability.

/s/ Kristin M. Kelley

October 6, 2021

/s/ Debra Joyce

October 6, 2021

Kristin M. Kelley, RPR, CRR
Debra Joyce, RMR, CRR
Official Court Reporters

Date